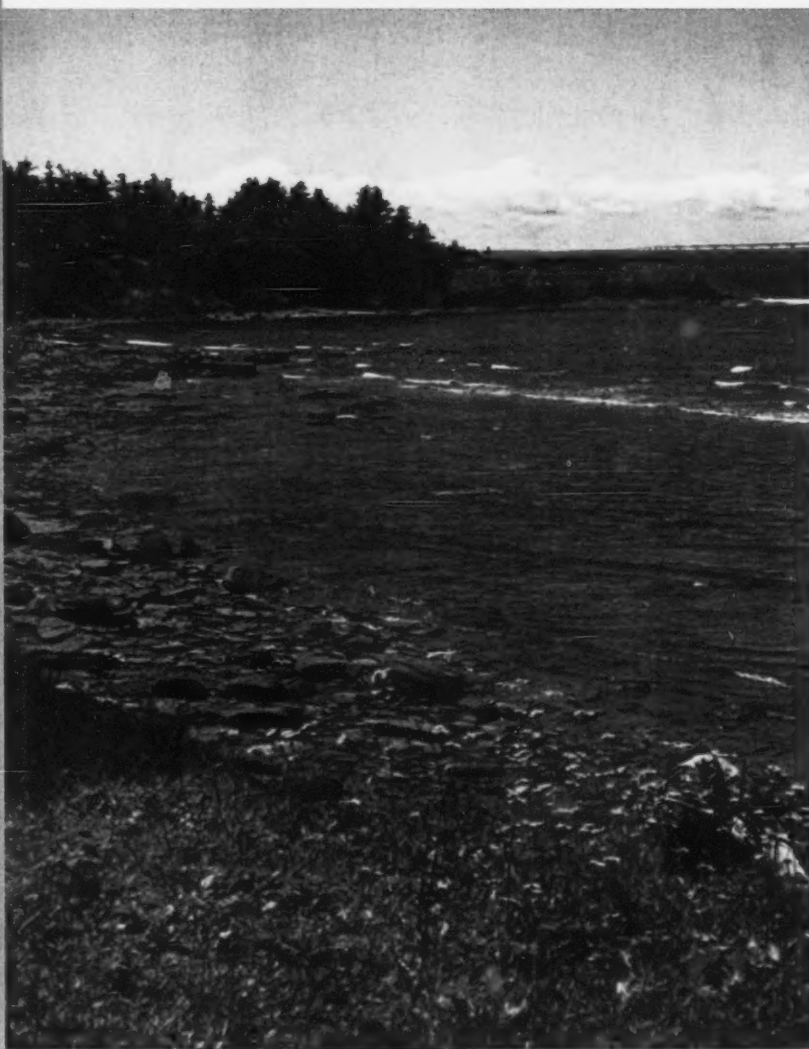




# **Annual Report 2009-10**

## **Island Regulatory and Appeals Commission**

### **Prince Edward Island**



Photography: Danielle Gillan  
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# CONTENTS

## 3 LETTER OF TRANSMITTAL

## 5 || 29 CORPORATE & FINANCIAL

5	Legislative Responsibilities & Corporate Organization
5	Introduction
6	Commission Personnel
7    10	Chair's Comments
11    16	Strategic Plan
17    26	Auditor's Report
27    29	Assessments

## 31 || 37 LANDS PROTECTION

31	Lands Protection - Applications
31	Non-Resident Applications
32	Corporate Applications - Resident
32	Corporate Applications - Non-Resident
33	Global Leasing Applications - Non-Resident and Corporate
33	Applications Reviewed under the <i>Lands Protection Act</i>
34	Applications to Cancel, Suspend or Amend Conditions
35	Lands Protection - Other
35	Annual Disclosure Process
35	The Land Identification Program
36	Information and Monitoring System
36	Enforcement
37	Municipal Boundary Extensions

## 39 || 51 REGULATORY FUNCTIONS

39    44	Petroleum Licensing & Pricing
45	Public Utilities
45    48	Electric
49    50	Water & Sewer
50	Automobile Insurance
51	Waste Management

## 53 || 56 APPELLATE FUNCTIONS

53	Planning
54	Real Property Assessments
54	Real Property Taxes
55	Appeals under the Emergency 911 Act
55	Revenue (Sales) Taxes
55	Unightly Properties
55	Entranceway Permits
55	Heritage Places
56	Environmental Appeals
56	Rental Appeals

## 57 || 61 OFFICE OF THE DIRECTOR OF RESIDENTIAL RENTAL PROPERTY

57    59	Office of the Director of Residential Rental Property
59	Enforcement of Statutory or Other Conditions of a Rental Agreement
60	Security Deposits
60	Termination of Rental Agreements
61	Rental Increases
61	Appeals to the Commission
61	Significant Events

Page 5 - Corporate & Financial



Page 31 - Lands Protection



Page 39 - Regulatory Functions



Page 53 - Appellate Functions



Page 57 - ODRPP







## LETTER OF TRANSMITTAL



The Honourable Doug Currie  
Minister of Education and Early Childhood Education  
Province of Prince Edward Island

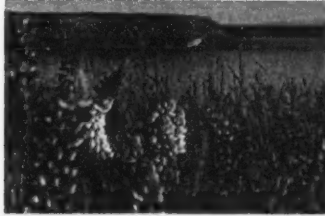
Honourable Mr. Currie:

The Island Regulatory and Appeals Commission has the honour to present its Annual Report for the year ended March 31, 2010.

Respectfully submitted,

Maurice Rodgerson  
Chair





## CORPORATE & FINANCIAL

### Legislative Responsibilities & Corporate Organization

#### Introduction

The Island Regulatory and Appeals Commission is established by the *Island Regulatory and Appeals Commission Act*, R.S.P.E.I. 1988 Cap. I-II.

The principal Acts under the administration of the Commission are:

- *Lands Protection Act*
- *Rental of Residential Property Act*
- *Petroleum Products Act*
- *Electric Power Act*
- *Water and Sewerage Act*

In addition to administering these Acts, the Commission's responsibilities include: appellate responsibilities under the *Planning Act*; the *Unsuitable Property Act*; the *Revenue Administration Act* (appeals on taxation under the *Gasoline Tax Act*, the *Health Tax Act*, the *Revenue Tax Act*, and the *Environment Tax Act*); the *Real Property Assessment Act*; the *Real Property Tax Act*; the *Roads Act*; and the *Heritage Places Protection Act*. The Commission has responsibility under the *Municipalities Act* for conducting public hearings and making recommendations to the Minister on municipal boundary extension applications. The Commission regulates automobile insurance rates under the *Insurance Act*, and changes to Island Waste Management Corporation rates under the *Environmental Protection Act*. The Commission was given additional appellate responsibilities during 2009 with the granting of a limited right of appeal under Section 29.1 of the *Environmental Protection Act* in conjunction with Section 13 of the *Environmental Protection Act - Watercourse and Wetland Protection Regulations*.

## Commission Personnel (as of March 31, 2010)

### Full-time Commissioners:

Chair and Chief Executive Officer  
Vice-Chair  
Commissioner

- Maurice Rodgeron
- Allan Rankin
- John Broderick

### Part-time Commissioners:

- Ernest Arsenault
- David Holmes
- Chester MacNeill
- Anne Petley

### Staff Positions:

#### Land, Corporate and Appellate Services

Director  
Commission Administrator  
LPA Administrator  
Appeals Administrator  
LPA Analyst  
Admin Support / Receptionist  
Receptionist

- Eileen Callaghan
- Susan Jefferson
- Danielle Lavigne
- Philip Rafuse
- Janice MacKinnon
- Dawn Murphy
- Glynne Squires

#### Office of the Director of Residential Rental Property

Director  
Rental Officer  
Rental Officer  
Information Officer  
Administrative Assistant

- Catherine Flanagan
- Shayne Hogan
- John Keizer
- Kay Driscoll
- Hillis Jones

#### Technical and Regulatory Services

Director  
Senior Analyst  
Research Analyst  
Systems Specialist  
Analyst  
Licensing & Pricing Coordinator

- Allison MacEwen
- Mark Lanigan
- Heather Walker
- Daniel Arsenault
- Donna Chandler
- Faye Weeks

## Chair's Comments



I am pleased to present the Annual Report of the Prince Edward Island Regulatory and Appeals Commission covering the period April 1, 2009 to March 31, 2010. The following pages offer considerable insight into the activities of the Commission. I will highlight a couple of observations.

During this year we lost Donald G. Sutherland, a senior staff member, following a tragic highway accident. Don was a central figure at the Commission for 30 years, a key figure in regulatory functions and a guiding force in technological advancements. His expertise, dedication to the Commission and focus on fairness were a reflection of his commitment to public service. With his passing we lost a guiding light, friend and colleague. His many contributions will live on in the day to day workings of the Commission.

Also in this reporting period Vice-Chair Brian McKenna accepted a secondment to Veterans Affairs Canada and we wish Brian success in his new role. Allan Rankin assumed the role of Vice-Chair and his extensive background in public service is a most welcome addition to the Commission. Part-time Commissioner Gordon McCarville retired and I thank him for his service with the Commission and for the municipal experience and knowledge of Prince Edward Island he demonstrated.

The global recession and slow turn around in the US economy has helped stabilize energy costs, both in the petroleum and electricity sectors, which in turn helped stabilize these costs for Islanders. The fallout from the economic downturn is also evident in reduced non-resident and corporate applications under the *Lands Protection Act*. Non-resident applications dropped to less than half the average that we processed in each of the past ten years.

Recognizing the importance of the actual cost of heating in determining the allowable rent increase for heated units, the Commission contracted an independent consultant to seek specific heating cost information from representative rental operations. This took into account the various types of rental accommodations offered in the Island market. I thank the private business operators for "opening their books" to the independent consultant and the resulting study information will assist with future decisions.

In an effort to improve communication and understanding of our respective roles, the Commission participated in several interactions with the Federation of PEI Municipalities. Given our roles in regulating many sewer and water utilities as well as our appellate functions, I consider such dialogue of great value.

Following the amendments to the *Planning Act*, the Commission has noted an increase in the number of appeal matters with a jurisdictional consideration. This may be a reflection of the growing complexity of appeals and the factors involved.

The Commission is developing a data base to enable us to effectively track the exemption of environmentally sensitive lands from the limits of the *Lands Protection Act*.

I am pleased the Commission is meeting its objective of having Orders issued within a month of the final hearing day.

The attached financial statements demonstrate effective and efficient financial management while dealing with reduced revenues and increased demands.

The Commission played a direct role in the establishment of the Canadian Auto Insurance Rate Regulators (CARR), an organization of entities regulating auto insurance rates across Canada. Involvement in this organization enables the Commission to gain and share knowledge about this important aspect of our work.

The Commission interacts with many Islanders and deals with issues that directly impact peoples' lives. As Chair, I appreciate the commitment to service demonstrated by staff, their respect for individuals and professionalism in often challenging situations. I thank my Commissioner colleagues for their dedication and input.

Maurice Rodgers, Chair

## Commentaries du président

Je suis heureux de présenter le rapport annuel de la Commission de réglementation et d'appels de l'Île-du-Prince-Édouard qui couvre la période allant du 1<sup>er</sup> avril 2009 au 31 mars 2010. Les pages suivantes offrent un aperçu considérable des activités de la Commission. Je soulignerai quelques observations.

Au cours de l'année, nous avons perdu Donald G. Sutherland, un membre du personnel supérieur, à la suite d'un tragique accident de route. Don était un personnage central à la Commission pendant 30 ans, un acteur important dans les fonctions de réglementation et une force directrice dans les avancées technologiques. Son expertise et son dévouement à la Commission et la priorité qu'il accordait à l'équité sont un reflet de son engagement à la fonction publique. En raison de son décès, nous avons perdu un guide, un ami et un collègue. Ses nombreuses contributions demeureront présentes dans le travail quotidien de la Commission.

Également lors de cette période de rapport, le vice-président Brian McKenna a accepté un détachement aux Anciens Combattants Canada et nous souhaitons à Brian beaucoup de succès dans son nouveau rôle. Allan Rankin a assumé le rôle du vice-président et sa vaste expérience dans la fonction publique est un ajout apprécié à la Commission. Le commissaire à temps partiel Gordon McCarville a pris sa retraite et je le remercie pour son service auprès de la Commission et pour l'expérience municipale et les connaissances de l'Île-du-Prince-Édouard qu'il a démontrées.

La récession globale et la reprise lente dans l'économie des États-Unis ont aidé à stabiliser les coûts en énergie à la fois dans le secteur du pétrole et le secteur de l'électricité, qui à leur tour ont aidé à stabiliser les coûts pour les Insulaires. Les répercussions du ralentissement économique paraissent dans les demandes des non-résidents et des entreprises en vertu de la *Lands Protection Act* (loi sur la protection des terres). Les demandes des non-résidents ont chuté à moins de la moitié de la moyenne de ce que nous avons traité dans chacune des dix dernières années.

En reconnaissant l'importance du coût actuel de chauffage en déterminant la hausse de loyer admissible pour les unités chauffées, la Commission a passé un contrat avec un conseiller indépendant pour recueillir des données particulières sur le coût de chauffage de la part des exploitants d'unités locatives représentatives. Cela a pris en considération les différents types de logements locatifs offerts dans le marché de l'Île. Je remercie les exploitants d'affaires privés d'avoir ouvert leurs comptes aux conseillers indépendants. Les résultats de l'étude aideront aux décisions futures.

Dans un effort pour améliorer la communication et pour comprendre nos rôles respectifs, la Commission a participé à plusieurs discussions avec la Fédération of PEI Municipalités. Étant donné nos rôles dans la réglementation de nombreux égouts et services d'eau, ainsi que nos fonctions d'appel, je considère qu'un tel dialogue a une grande valeur.

À la suite des modifications à la *Planning Act* (loi sur l'aménagement du territoire), la Commission a noté une augmentation du nombre de questions en appel liées aux compétences. Il s'agit peut-être d'une réflexion de la complexité croissante des appels et des facteurs afférents.

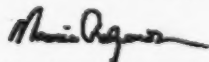
La Commission crée une base de données pour nous permettre de suivre avec efficacité l'exemption de terres écosensibles selon les limites de la *Lands Protection Act*.

Je suis heureux que la Commission continue d'atteindre son objectif de publier ses arrêtés dans une période d'un mois après la date d'audience finale.

Les états financiers ci-joints démontrent une gestion financière efficace malgré une baisse de revenus et une hausse de la demande.

La Commission a joué un rôle direct dans l'établissement de l'organisme Canadian Auto Insurance Rate Regulators (CARR) composé d'entités faisant la réglementation des tarifs d'assurance automobile dans l'ensemble du Canada. La participation à cet organisme donne à la Commission l'accès à des connaissances au sujet de cet aspect important de notre travail et la possibilité de partager ces connaissances.

La Commission mène des discussions avec de nombreux Insulaires et traite de sujets qui ont un impact direct sur la vie des gens. En tant que président, j'apprécie l'engagement au service démontré par le personnel, leur respect pour les individus et leur professionnalisme dans des situations difficiles. Je remercie mes collègues commissaires pour leur dévouement et leur service.



Maurice Rodgerson, du président

**2001 – 2010  
Public Hearing Days-by Division  
(Fiscal Year End)**

	land & property	technical services	rental	petroleum	TOTAL
2010	9	1	33	0	43
2009	16	1	15	0	32
2008	6	0	12	0	18
2007	9	0	10	0	19
2006	21	0	18	0	39
2005	18	4	13	0	35
2004	5	0	12	0	17
2003	13	4	13	0	30
2002	8	2	9	0	19
2001	10	3	5	0	18

**2001 – 2010  
Commission Meetings & Hearings  
(Fiscal Year End)**

	hearings	meetings	TOTAL
2010	43	233	276
2009	32	256	288
2008	18	215	233
2007	19	208	227
2006	39	245	284
2005	35	159	194
2004	17	198	215
2003	30	201	231
2002	19	218	237
2001	18	200	218



**2001 - 2010**  
**Commission Decisions-Orders-**  
**Approvals-Mediations**  
**(Fiscal Year End)**

	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010
<b>LANDS PROTECTION</b>										
Non-Resident Applications	113	104	116	99	106	106	120	113	107	48
Corporate Applications	217	210	203	225	185	203	246	240	211	171
Annual Disclosure Statements	98	115	120	134	136	142	142	150	139	135
Global Lease Applications	3	10	4	9	16	8	4	12	11	11
Amendment Applications	36	25	38	47	54	51	67	42	49	44
Enforcement Decisions/Orders	25	20	13	15	4	9	4	5	19	18
<b>TOTAL LANDS PROTECTION</b>	<b>492</b>	<b>484</b>	<b>494</b>	<b>529</b>	<b>501</b>	<b>519</b>	<b>583</b>	<b>562</b>	<b>536</b>	<b>427</b>
<b>MUNICIPAL BOUNDARY EXTENSIONS</b>										
	1	0	0	0	1	2	0	4	2	0
<b>REGULATORY FUNCTIONS</b>										
• Petroleum Licensing & Pricing										
Petroleum Pricing Applications	90	98	109	109	111	108	**50	16	28	38
Other Petroleum Pricing Matters	2	2	6	1	5	5	22	28	34	30
Initial Petroleum Applications	2	4	26	1	9	11	13	8	4	7
Other Petroleum	4	4	4	21	31	59	56	40	31	40
<b>Total Petroleum Licensing &amp; Pricing</b>	<b>98</b>	<b>108</b>	<b>145</b>	<b>132</b>	<b>156</b>	<b>183</b>	<b>141</b>	<b>92</b>	<b>97</b>	<b>115</b>
• Public Utilities										
Water-Sewer Utility Rate Applications	4	2	1	4	4	2	6	2	6	3
Electric Utility Rate-Related Applications*	n/a	n/a	n/a	0	2	3	1	2	5	4
Water-Sewer Utility Formal Complaints	0	0	0	0	0	0	0	0	0	1
Electric Formal Complaints	0	0	0	0	0	0	0	1	1	0
Other Water-Sewer	1	0	0	1	0	0	1	0	0	0
Other Electric	3	0	1	1	4	1	8	6	12	2
Water-Sewer Construction Permits	2	7	15	15	6	13	23	12	7	11
Other	0	0	0	0	0	0	0	0	0	0
<b>Total Public Utilities</b>	<b>10</b>	<b>9</b>	<b>17</b>	<b>21</b>	<b>16</b>	<b>19</b>	<b>39</b>	<b>23</b>	<b>31</b>	<b>21</b>
• Automobile Insurance	n/a	n/a	n/a	22	17	36	32	56	73	57
• Island Waste Management	n/a	n/a	n/a	n/a	n/a	1	0	0	0	1
<b>TOTAL REGULATORY FUNCTIONS</b>	<b>108</b>	<b>117</b>	<b>162</b>	<b>175</b>	<b>189</b>	<b>239</b>	<b>212</b>	<b>171</b>	<b>201</b>	<b>194</b>
<b>APPELLATE FUNCTIONS</b>										
Planning Act Appeals	13	9	5	8	14	14	12	11	14	11
Roads Act Appeals	0	2	0	0	0	0	0	0	0	0
Real Property Assessment Act Appeals	2	0	4	0	0	2	1	0	1	0
Rental Appeals/Allowable Rent Increase	10	16	22	20	21	20	18	17	19	36
Sales Tax Appeals	2	2	4	1	0	0	0	0	0	0
Appeals Mediated	3	1	2	0	4	2	2	0	0	0
<b>TOTAL APPELLATE FUNCTIONS</b>	<b>30</b>	<b>30</b>	<b>37</b>	<b>29</b>	<b>39</b>	<b>38</b>	<b>33</b>	<b>28</b>	<b>34</b>	<b>47</b>
<b>TOTAL OVERALL</b>	<b>631</b>	<b>631</b>	<b>693</b>	<b>733</b>	<b>730</b>	<b>798</b>	<b>828</b>	<b>765</b>	<b>773</b>	<b>668</b>

\* Effective January 1, 2004, electric regulation was re-established.

\*\* Process of requiring applications for routine price changes discontinued (except for propane).



## Strategic Plan

In 2004, upon the completion of an environmental scan, the Commission adopted a Strategic Plan to guide operations into the future. Divisions established a number of specific goals and objectives based upon the Strategic Plan and those goals and objectives were presented in detail in the Commission's 2003-2004 annual report.

Since 2004, each annual report provides an update on the progress of goals and objectives set the preceding year and notes initiatives planned for the coming year.

### Mandate

The Commission is an independent quasi-judicial tribunal with appellate, regulatory and administrative responsibilities derived from the *Island Regulatory and Appeals Commission Act* and the provisions of a number of Province of PEI Statutes.

### Vision

To be respected for independence, professionalism, competence and leadership in the matters the Commission regulates, adjudicates and administers.

### Mission

To ensure the public of Prince Edward Island is provided with unbiased, well-reasoned, clear and timely decisions in all matters brought before the Commission for its consideration.

### Core Values

The following values govern the Commission's daily operations and interactions:

- ◇ Respect of the public trust vested in the Commission;
- ◇ Respect of the individuals, businesses and organizations with whom we interact;
- ◇ Professionalism in consultations and public hearings;
- ◇ Fairness, balance, clarity and timeliness in decisions;
- ◇ A safe, healthy, co-operative and respectful environment for our staff and the clients we serve;
- ◇ Competent, well-trained, and motivated employees;
- ◇ Open, accountable and responsible fiscal management; and
- ◇ Openness to new ideas and changes that meet the requirements of governing legislation and improves the Commission's effectiveness and efficiency.

### Corporate Goals

- ◇ To maintain the Commission's actual and perceived independence while remaining open and accountable to the public;
- ◇ To liaise with regulated industries in maintaining an efficient, fair, reasonable and cost effective regulatory system for auto insurance, water-wastewater, waste management and electrical rates;
- ◇ To regularly monitor and analyze public issues which arise in the normal course of the Commission fulfilling its mandate and to discuss such issues, where appropriate, with the Minister through whom the Commission reports to the legislature;
- ◇ To produce legally correct, timely, well reasoned and unbiased decisions for all matters under the Commission's consideration;
- ◇ To maintain up-to-date IT systems and hardware to enable staff to competently serve the public;
- ◇ To provide a non-threatening and user-friendly atmosphere for hearings and to continue to encourage appellants to appear with or without legal representation;

- ◊ To conduct hearings in such a manner as to ensure those without legal representation are afforded the full opportunity to be heard within the principles of fairness and natural justice;
- ◊ To continue to improve and expand the Commission's involvement and communications with relevant organizations and boards, government, regulated industries, public utilities and the general public;
- ◊ To ensure the public is properly informed about the Commission, its legislated mandate and its various functions;
- ◊ To ensure a continuous, well-trained, competent staff in all Commission mandated functions through staff development, training and cross-training where possible; and
- ◊ To provide a safe, healthy work environment for staff.

### **Accomplishments 2009-2010**

Commission representatives attended two meetings with the Federation of PEI Municipalities in an effort to improve dialogue and increase understanding of the role of the Commission in regard to hearing planning appeals and the regulation of sewer and water utilities.

The Commission has attained its goal of having most Orders issued within 30 days of the final hearing date.

The Commission had an independent consultant complete a cost of heating study to provide guidance for the Commission in determining the allowable percentage increase in rents.

To facilitate public access, the Commission began web casting some hearings.

A pamphlet explaining the Commission's role in regulating petroleum prices was completed.

### **Objectives 2010-2011**

Develop and post on the website the Commission's rules and practices to assist those appearing before the Commission.

Secure a more stable funding arrangement for the Commission.

Host an information session with interested municipal representatives on the regulation of sewer and water utilities.

Review the Commission's website to enhance ease of access and effective presentation of relevant information.

## **Office of the Director of Residential Rental Property**

### **1. Inquiries**

#### Accomplishments 2009-2010

The number of inquiries to the Office of the Director of Residential Rental Property experienced a decrease of 13% from 2008-2009. The single greatest decline was in inquiries relating to rent and rent increases, reflecting the greater stability with respect to heating costs than in the two previous reporting periods. Lessors and lessees continue to contact the Office for information on all aspects of the legislation. The Information Officer and the Rental Officers are continuing to provide information sessions to a number of interest groups anxious to know their rights as lessors/lessees as well as to other groups who interact with lessors and lessees.

### Objectives 2010-2011

- a. To continue to provide timely and knowledgeable advisory services so that lessors and lessees may resolve their differences quickly and in conformity with the legislative framework; and
- b. To continuously review the procedures of the office to seek ways to further improve service effectiveness and efficiency.

## **2. Hearings**

### Accomplishments 2009-2010

The number of applications filed in 2009-2010 decreased from 513 to 450, with the greatest reduction in applications involving rent increases from 75 in the previous reporting period to 17, a reduction of 77% in that category of application. Approximately 18% of all applications were resolved before a hearing could be held. The average time elapsed from application to hearing date decreased by six days in 2009-2010.

### Objectives 2010-2011

- a. To prepare for any legislative changes resulting from the Recommendations for Amendments to the *Rental of Residential Property Act* presented to the Minister of Education and Attorney General and the public consultations held in spring 2009; and
- b. To continue to seek innovative ways to streamline the application process to increase overall efficiency.

## **3. Decisions**

### Accomplishments 2009-2010

The number of Orders issued by the Office dropped only slightly from the previous year, from 399 to 395. The average wait time from hearing date to Order issued was reduced by 44% compared with the previous reporting period.

### Objectives 2009-2010

- a. To continue to strive to issue as many decisions within 30 days of hearing as possible and to maintain effectiveness and efficiency; and
- b. To continue to streamline the process of rendering decisions while maintaining the quality of the written decisions.

## **Technical and Regulatory Services Division**

### **1. Auto Insurance Rate Regulation**

Auto insurance rate regulation was implemented in 2004-2005 and continues to consume significant staff resources.

### Accomplishments 2009-2010

- a. Reviewed and approved annual auto insurance rate filings for all insurers;
- b. Refined database management tools that assisted in analyzing and processing applications;
- c. Actively participated in the development of the Canadian Auto Insurance Rate Regulators Association (CARR); and
- d. Successfully implemented and updated the rating profile system.

### Objectives 2010-2011

- a. To review and approve annual auto insurance rate filings for all insurers;
- b. To continue the development of a regulatory process that is cost effective and timely;
- c. To continue to refine database management tools to assist in analyzing and processing applications;
- d. To review the filing guidelines and rating profiles;
- e. To continue active participation in the Canadian Auto Insurance Rate Regulators Association; and
- f. To transition to a national harmonized rating profile system.

## **2. Electrical Utility Regulation**

The implementation of electric utility regulation took effect on January 1, 2004 with the proclamation of the *Electric Power Act*.

### Accomplishments 2009-2010

- a. Conducted public hearings into: 1) Maritime Electric's 2009 rate application; 2) the City of Summerside Electric Utility transmission line application; and 3) reviewed Maritime Electric's annual capital budget;
- b. Approved amendments to the Open Access Transmission Tariff ("OATT") interim rate schedule; and
- c. Reviewed and approved updates to a set of key performance indicators and a reporting mechanism which provides monthly information on Maritime Electric's ongoing operating performance.

### Objectives 2010-2011

- a. To continue the development of a regulatory process that is cost effective and timely;
- b. To review Maritime Electric's ongoing capital programs and demand side management plans as well as the Company's rules and regulations, and to finalize an open access transmission tariff in Prince Edward Island;
- c. To conduct a public hearing relative to Maritime Electric's 2010/2011 rate application; and
- d. To review Maritime Electric's energy supply agreements.

## **3. Petroleum Regulation**

### Accomplishments 2009-2010

- a. Continued to refine the Commission's Commodity Based Pricing Model.

### Objectives 2010-2011

- a. To continue to maintain the high level of data analyses and research in the pricing area; and
- b. To continue to maintain a positive working relationship with the industry and the consuming public.

## **4. Municipal Water and Wastewater Utility Regulation**

The Commission regulates approximately 26 municipal and private water-wastewater utilities.

### Accomplishments 2009-2010

- a. Reviewed the rates of several municipal utilities and authorized a number of rate changes.

### Objectives 2010-2011

- a. To continue to ensure that uniform accounting procedures are being followed;
- b. To continue to provide assistance and information to utilities, and to review and authorize rate changes as necessary; and
- c. To review current practices, particularly related to rate setting, and to gather feedback from utilities on ways to enhance procedures.

## **Land Corporate and Appellate Services Division**

### **1. Appellate Functions**

#### Accomplishments 2009-2010

Commission staff continues to provide interested individuals with information on the appeal process and appeal procedure. The Chair, the Vice Chair and the Appeals Administrator attended the Federation of Municipalities meeting in January, 2010. This meeting was a valuable source of information for the Commission and provided the Federation an opportunity to voice concerns.

The process for appeals under the *Environmental Protection Act* will continue to evolve as new appeals are received. The appeal form has been modified since its creation in 2008-2009.

Staff continued to review the Frequently Asked Questions sections of the appeals area on the Commission's website and made appropriate changes and additions on a regular basis.

#### Objectives 2010 - 2011

Commission staff will:

- a. Continue to liaise with those groups and organizations who are interested in the Commission's mandate;
- b. Continue to make themselves available to groups such as the Federation of Municipalities, the Department of Finance and Municipal Affairs and the Law Society of Prince Edward Island;
- c. Continue to provide research for the Commission into jurisdictional issues which have arisen through the proclamation of revisions to the *Planning Act* in June, 2009;
- d. Continue the ongoing development of the appeal process for appeals filed under the *Environmental Protection Act*;
- e. Continue an ongoing review of the Frequently Asked Questions sections of the appeals area on the Commission's website; and
- f. Continue to work with Technical and Regulatory Services Division staff to revamp/create a database for appeals.

### **2. Lands Protection**

#### Accomplishments 2009-2010

- a. Notices of Termination project is approximately 75% complete and will be completed in this fiscal year;
- b. The analysis of a discrepancy between the number of acres transferred to non-resident ownership according to provincial assessment records and the number of acres approved for non-resident ownership under the *Lands Protection Act* process is on-going and will continue as time and staff resources permit;
- c. The changes to the *Lands Protection Act* forms have been approved by Executive Council;
- d. Staff is continuing to develop methods to provide a more accurate estimate of identified acreage in the Province as time and resources permit. Letters have been sent to legal counsel with good results. Some transactions will require a title search to determine if the transaction has occurred. This will be done as time and staff resources permit;

- e. Commission staff had a very informative meeting with staff from the then Department of Communities, Cultural Affairs and Labour concerning Planning Act and Subdivision Regulations. Both groups agreed that such meetings are beneficial and should happen more often; and
- f. The Frequently Asked Questions are reviewed on an ongoing basis.

#### Objectives 2010-2011

Commission staff shall:

- a. Review Disclosure Forms;
- b. If the Department is agreeable, arrange a follow-up meeting with development officers at a time that is convenient for both parties;
- c. Facilitate discussions with the Commission on the Administrative Guidelines for Advertising Land;
- d. Bring the list of transaction checks up to date by searching the registry office for deeds for those transactions where it is unknown whether they have occurred;
- e. Review the Frequently Asked Questions on an ongoing basis; and
- f. Continue the development of a database for the lands eligible for an exemption under the Exemption Regulations.

### **3. Divisional**

#### Objectives 2010-2011

- a. The Commission will continue to provide staff opportunities to participate in training and development. Staff will also be provided with in-house training sessions that are relevant to their areas of work.



# Financial Data

## Auditor's Report



### Chartered Accountants

A.W. Beaton, FCA  
J.G. Murray, CA  
P.J. Trainor, CA  
J.J. Dunn, CA, TEP

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### AUDITORS' REPORT TO THE COMMISSIONERS

We have audited the balance sheets of Prince Edward Island Regulatory and Appeals Commission for the capital and operating funds as at March 31, 2010 and the statement of earnings and surplus for the year then ended. These financial statements are the responsibility of the Commission's management. Our responsibility is to express an opinion on these financial statements based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation.

In our opinion, these financial statements present fairly, in all material respects, the financial position of the Commission as at March 31, 2010 and the results of its operations for the year then ended in accordance with Canadian generally accepted accounting principles.

*BFM Chartered Accountants*

Charlottetown, Prince Edward Island  
May 27, 2010

# PRINCE EDWARD ISLAND REGULATORY AND APPEALS COMMISSION

## Balance Sheet - Capital Fund

March 31, 2010, with comparative figures for 2009

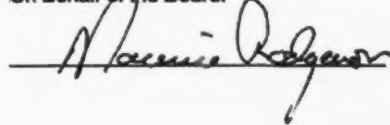
	2010	2009
<b>Assets</b>		
Leaseholds and equipment (note 3)		
Leasehold improvements	\$ 19,800	\$ 31,962
Furnishings and equipment	16,366	16,366
Computer equipment	273,135	287,283
	309,301	335,611
Accumulated amortization	214,642	207,163
	\$ 94,659	\$ 128,448

## Liabilities and Surplus

Surplus: Invested in capital assets (note 4)	\$ 94,659	\$ 128,448
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See accompanying notes to financial statements.

On Behalf of the Board:

 Chairman



# PRINCE EDWARD ISLAND REGULATORY AND APPEALS COMMISSION

## Balance Sheet - Operating Fund

March 31, 2010, with comparative figures for 2009

	2010	2009
<b>Assets</b>		
Current assets:		
Cash and term deposits (note 2)	\$ 848,255	\$ 739,238
Cash held in trust	5,075	8,640
Receivables - trade	64,576	162,180
- employees	4,880	606
Prepaid expenses	357	2,122
	<b>\$ 923,143</b>	<b>\$ 912,786</b>

## Liabilities and Surplus

### Current liabilities:

#### Accounts payable and accrued liabilities:

Trade	\$ 70,655	\$ 169,745
Vacation pay	94,274	88,505
Deposit guarantees - Director of Residential Rental Property	5,075	8,640
Province of Prince Edward Island	192,049	-
	<b>362,053</b>	<b>266,890</b>

Deferred revenue (note 5) - 62,715

Reserves (note 6) - 48,366

Severance allowance 349,873 357,387

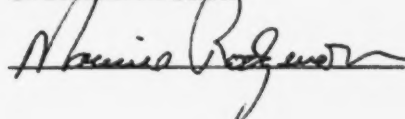
Surplus 211,217 177,428

### Commitment (note 7)

	<b>\$ 923,143</b>	<b>\$ 912,786</b>
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See accompanying notes to financial statements.

On Behalf of the Board:

 Chairman

# PRINCE EDWARD ISLAND REGULATORY AND APPEALS COMMISSION

## Statement of Earnings and Surplus - Operating Fund

Year ended March 31, 2010, with comparative figures for 2009

	2010	2009
<b>Revenue:</b>		
Assessments on public utilities	\$ 454,691	\$ 454,512
Assessments on auto insurance	135,883	135,384
Licenses - petroleum products	261,490	246,155
Permits - land and property division	118,949	169,237
Lands Protection Act penalty	-	4,000
Assessment - Province of Prince Edward Island	1,335,100	1,310,700
Investment income	24,427	27,330
	<b>2,330,540</b>	<b>2,347,318</b>
<b>Expenses:</b>		
Advertising	16,760	16,913
Amortization	98,278	105,427
Cleaning	8,920	8,458
Computer maintenance and supplies	38,288	40,815
Education and development	18,090	25,580
Insurance	9,499	9,376
Office and supplies	31,029	43,080
Part-time commissioners	41,122	44,349
Postage	3,966	4,757
Professional fees	95,253	190,601
Publications	13,952	20,268
Rent	182,217	180,796
Salaries and employee benefits	1,620,531	1,719,817
Telephone	19,968	32,485
Travel	51,697	56,230
	<b>2,249,570</b>	<b>2,498,952</b>
Earnings (loss) before Reserves transfer	80,970	(151,634)
Transfer from Reserves (note 6)	-	151,634
	<b>80,970</b>	<b>-</b>
Deferred revenue (note 5)	(80,970)	-
Net earnings	-	-
Surplus, beginning of year	177,428	203,854
Transfer from capital fund	98,278	105,427
Transfer to capital fund for investment in capital assets	(64,489)	(131,853)
Surplus, end of year	<b>\$ 211,217</b>	<b>\$ 177,428</b>

See accompanying notes to financial statements.

## PRINCE EDWARD ISLAND REGULATORY AND APPEALS COMMISSION

### Notes to Financial Statements

Year ended March 31, 2010

The Commission is incorporated under the Island Regulatory and Appeals Commission Act of Prince Edward Island. The Commission is primarily engaged in the general supervision of public utilities, petroleum distributors, land and property appeals, Office of the Director of Residential Rental Property, auto insurance rate regulation and the hearing of appeals for property and sales tax disputes. The Commission is also responsible for recommending decisions under the Lands Protection Act. The Commission is a non-taxable entity under the provisions of the Income Tax Act.

#### 1. Significant accounting policies:

##### (a) Cash and cash equivalents:

Cash and cash equivalents consist of cash on hand, bank balances and investments in money market instruments with maturities of less than one year; all money market instruments are available on demand and can be cashed prior to maturity. Cash and cash equivalents have been classified as held-for-trading.

##### (b) Leaseholds and equipment:

Leaseholds and equipment are stated at cost and are amortized on the straight-line basis using the following annual rates:

Asset	Rate
Leasehold improvements	20%
Furnishings and equipment	20%
Computer equipment	33 1/3%

##### (c) Vacation pay and severance allowance:

Vacation pay is recorded as a liability when earned. Severance allowances are recognized when the employee meets the eligibility criteria.

##### (d) Pension costs:

Employees of the Commission belong to the Civil Service Superannuation plan. Employees' contributions and matching employer's contributions are transferred to the Civil Service Superannuation Fund. Future actuarial liabilities assumed by the Province of Prince Edward Island are not reflected in these financial statements.

# PRINCE EDWARD ISLAND REGULATORY AND APPEALS COMMISSION

## Notes to Financial Statements

Year ended March 31, 2010

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### 1. Significant accounting policies (continued):

#### (e) Investments:

Investments are classified as held-for-trading and are recorded at market value.

#### (f) Revenue recognition:

Revenues are recorded in the period in which the transaction or events that give rise to the revenues occur. Amounts that have been received in advance of services being rendered are recorded as deferred revenue until the Commission discharges the obligations that led to the collection of funds.

#### (g) Financial instruments:

The Commission utilizes various financial instruments. Unless otherwise noted, it is management's opinion that the Commission is not exposed to significant interest, currency or credit risks arising from these financial instruments and the carrying amounts approximate fair values.

All transactions related to financial instruments are recorded on a trade date basis. The Commission does not enter into financial hedging activities and does not engage in derivative transactions.

The Commission classifies its financial instruments into one of the following categories based on the purpose for which the asset was acquired. The Commission's accounting policy for each category is as follows:

##### **Held-for-trading:**

This category is comprised of certain investments in equity and debt instruments, stand-alone derivatives, other than those designated as hedging items, and embedded derivatives requiring separation. They are carried in the balance sheet at fair value with changes in fair value recognized in the income statement. Transaction costs related to instruments classified as held-for-trading are expensed as incurred.

##### **Loans and receivables:**

These assets are non-derivative financial assets resulting from the delivery of cash or other assets by a lender to a borrower in return for a promise to repay on a specified date or dates, or on demand. They arise principally through the provision of goods and services to customers (accounts receivable), but also incorporate other types of contractual monetary assets. They are initially recognized at fair value and subsequently carried at amortized cost, using the effective interest rate method, less any provision for impairment. Transaction costs related to loans and receivables are expensed as incurred.

# PRINCE EDWARD ISLAND REGULATORY AND APPEALS COMMISSION

## Notes to Financial Statements

Year ended March 31, 2010

### 1. Significant accounting policies (continued):

#### (g) Financial instruments (continued):

##### Other financial liabilities:

Other financial liabilities include all financial liabilities other than those classified as held-for-trading and is comprised of trade payables, other short-term monetary liabilities and bank borrowings. These liabilities are initially recognized at fair value and subsequently carried at amortized cost using the effective interest rate method. Transaction costs related to other financial liabilities are expensed as incurred.

#### (h) Use of estimates:

The preparation of financial statements in accordance with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from management's best estimates as additional information becomes available in the future.

#### (i) Financial risk management objectives and policies:

The Commission's risk management policies are part of the overall management of the entity's operations. Management's direct involvement in day-to-day operations identifies risks and variations from expectations leading to changes in risk management activities, requirements and actions. As part of the overall management of the entity's operations, management considers avoidance of undue concentrations of risk, and employs appropriate investment and credit management policies to manage the Commission's exposure.

### 2. Cash and term deposits:

	2010	2009
Cash	\$ 54,261	\$ 152,250
CIBC - GIC's	-	305,293
Scotiabank - GIC's	793,994	281,695
	<u>\$ 848,255</u>	<u>\$ 739,238</u>

**PRINCE EDWARD ISLAND REGULATORY AND APPEALS COMMISSION**

## Notes to Financial Statements

Year ended March 31, 2010

**3. Leaseholds and equipment:**

	Cost	Accumulated amortization	2010 Net book value	2009 Net book value
Leasehold improvements	\$ 19,800	\$ 15,840	\$ 3,960	\$ 7,920
Furnishings and equipment	16,366	11,935	4,431	7,704
Computer equipment	273,135	186,867	86,268	112,824
	<b>\$ 309,301</b>	<b>\$ 214,642</b>	<b>\$ 94,659</b>	<b>\$ 128,448</b>

**4. Surplus - capital fund balance sheet:**

	2010	2009
Surplus, beginning of year	\$ 128,448	\$ 102,022
Capital assets purchased during current year	64,489	131,853
	192,937	233,875
Transfer to operating fund - amortization	98,278	105,427
Surplus, end of year	<b>\$ 94,659</b>	<b>\$ 128,448</b>

**5. Deferred revenue:**

Pursuant to a three-year provincial assessment agreement entered into with the Province of Prince Edward Island, the Commission has agreed to refund to the Province of Prince Edward Island, at the end of the agreement, the accumulated surplus, if any, for the years ended March 31, 2008, 2009, and 2010.

## PRINCE EDWARD ISLAND REGULATORY AND APPEALS COMMISSION

### Notes to Financial Statements

Year ended March 31, 2010

#### 6. Reserves:

	2010	2009
Reserve balance, beginning of year	\$ 48,366	\$ 200,000
Transfer to deficit	-	(151,634)
Repayment to Province	(48,366)	-
Reserve balance, end of year	\$ -	\$ 48,366
Comprised of:		
Reserve for Provincial assessment deficiency	-	48,366
	\$ -	\$ 48,366

#### 7. Commitment:

As of the audit report date, the Commission had not yet renewed its operating lease for its premises. Assuming renewal under similar terms, lease payments are anticipated to be \$ 14,981. per month plus common area charges, and the lease would expire on March 31, 2012.

The minimum annual lease payment to the expiry date would be \$ 179,772.

#### 8. Pension costs and obligations:

During the year, the Commission contributed \$ 103,153. (2009 - \$ 106,618.) to a defined benefit pension plan on behalf of certain employees. These amounts are included in salaries and employee benefits in the statement of earnings and surplus. The pension plan is provided by the Province of Prince Edward Island's Civil Service Superannuation Fund.



# PRINCE EDWARD ISLAND REGULATORY AND APPEALS COMMISSION

## Notes to Financial Statements

Year ended March 31, 2010

### 9. Financial instruments:

	As at March 31, 2010		As at March 31, 2009	
	Carrying value	Estimated fair value	Carrying value	Estimated fair value
<b>Held-for-trading</b>				
Cash and cash equivalents	\$ 853,330	\$ 853,330	\$ 747,878	\$ 747,878
<b>Loans and receivables</b>				
Trade and other accounts receivable	69,456	69,456	162,786	162,786
<b>Other financial liabilities</b>				
Trade and other accounts payable	362,053	362,053	266,890	266,890

The carrying values of financial instruments included in current assets and current liabilities approximate their fair value, reflecting the short-term maturity, normal trade credit terms and/or the nature of these instruments. The fair value of the Commission's severance allowance is not determinable due to the uncertainty surrounding the timing of employee retirements. Accordingly, the carrying value of the allowance is deemed to approximate its fair value.

### 10. Capital management:

The Commission's capital consists of surplus, net of cash and term deposits. The Commission's primary capital management objective is to ensure that committed future expenditures do not exceed current capital resources.

To manage the capital structure, the Commission may adjust capital spending, or may acquire additional capital resources. The Commission does not currently have any material long-term debt, capital leases or any off-balance-sheet obligations, and because it does not anticipate any such debt during 2011, it is not providing guidance on debt within the capital structure.

The Commission is not subject to any externally imposed capital requirements, and there has been no change with respect to overall capital risk management strategy during the year.



## ASSESSMENTS

Revenue is generated through the following fees for each Division:

### Land

Applications under *the Lands Protection Act* for purchase of property by non-residents:

- Minimum of \$550.00 or 1% of the agreed purchase price, whichever is greater.

### Residential Rental Property

Applications filed pursuant to the *Rental of Residential Property Act*:

a)	Rent owing filed by a Lessor (pursuant to Section 8 of the Act)	\$30.00
b)	Rent increase (pursuant to Section 23(3) of the Act)	
	Two units or less	\$25.00
	Three or more units	\$75.00
c)	All other applications by a Lessor or Lessee	\$10.00

### Technical and Regulatory Services

#### Petroleum

Revenues earned in the Petroleum section for this fiscal year were derived from the fees for licenses issued under the *Petroleum Products Act*, together with other related charges as set out in the schedule that follows on page 28:

- (i) Wholesale Distribution License—Initial \$1,500.00
- (ii) Wholesale Distribution License—Renewal  
Based on Total Annual Sales Volume for the Year  
Preceding the Current License Year (in Litres)
- | ASSESSMENT SCALE   |              | ASSESSMENT  |
|--|--------------|-------------|
| Annual Volume Range (in Litres)  |              | RATE        |
| 0  | - 2,500,000  | \$2,750.00  |
| 2,500,001  | - 5,000,000  | \$5,500.00  |
| 5,000,001  | - 15,000,000 | \$8,250.00  |
| 15,000,001   | - 30,000,000 | \$11,000.00 |
| (Over 30,000,000 - \$11,000.00, plus \$2,750.00 for each additional 15,000,000 or portion thereof) |              |             |
- (iii) Wholesale Distribution License—Supply of 20 lb. Cylinders to Propane Exchange Centres—  
Initial and Renewal \$500.00
- (iv) Outlet License—Retail Distributor—Initial \$1,500.00
- (v) Outlet License—Retail Distributor—Renewal  
Based on Total Sales Volume for Previous Year (in Litres)
- | ASSESSMENT SCALE                |              | ASSESSMENT |
|---------------------------------|--------------|------------|
| Annual Volume Range (in Litres) |              | RATE       |
| Minimum                         |              | \$300.00   |
| 1,000,001                       | - 2,000,000  | \$400.00   |
| 2,000,001                       | - 3,000,000  | \$500.00   |
| 3,000,001                       | - 4,000,000  | \$600.00   |
| 4,000,001                       | - 5,000,000  | \$700.00   |
| 5,000,001                       | - 6,000,000  | \$800.00   |
| 6,000,001                       | - 7,000,000  | \$900.00   |
| 7,000,001                       | - 8,000,000  | \$1,000.00 |
| 8,000,001                       | - 9,000,000  | \$1,100.00 |
| 9,000,001                       | - 10,000,000 | \$1,200.00 |
| 10,000,001                      | - 20,000,000 | \$1,500.00 |
| 20,000,001                      | - 50,000,000 | \$1,750.00 |
| Over 50,000,000                 |              | \$4,000.00 |
- (vi) Outlet License—Tank Truck—Initial and Renewal (Including Consumer Propane Cylinder Delivery  
Trucks) \$125.00
- (vii) Outlet License—Consumer Outlet—Initial \$200.00
- (viii) Outlet License—Consumer Outlet—Renewal  
Based on Total Sales Volume for Previous Year (in Litres)
- | ASSESSMENT SCALE                |             | ASSESSMENT |
|---------------------------------|-------------|------------|
| Annual Volume Range (in Litres) |             | RATE       |
| 0                               | - 500,000   | \$100.00   |
| 500,001                         | - 1,000,000 | \$200.00   |
| 1,000,001                       | - 2,000,000 | \$400.00   |
| 2,000,001                       | - 3,000,000 | \$600.00   |
| 3,000,001                       | - 4,000,000 | \$800.00   |
| 4,000,001                       | - 5,000,000 | \$1,000.00 |
| 5,000,001                       | - 6,000,000 | \$1,200.00 |
| 6,000,001                       | - 7,000,000 | \$1,400.00 |
| 7,000,001                       | - 8,000,000 | \$1,600.00 |
| For each additional million     |             | \$200.00   |
- (ix) Outlet License—Cardlock/Keylock Facilities—Initial \$200.00
- (x) Outlet License—Cardlock/Keylock Facilities—Renewal  
Based on Total Sales Volume for Previous Year (in Litres)
- | ASSESSMENT SCALE                |             | ASSESSMENT |
|---------------------------------|-------------|------------|
| Annual Volume Range (in Litres) |             | RATE       |
| 0                               | - 1,000,000 | \$200.00   |
| 1,000,001                       | - 2,000,000 | \$400.00   |
| 2,000,001                       | - 3,000,000 | \$600.00   |
| 3,000,001                       | - 4,000,000 | \$800.00   |
| 4,000,001                       | - 5,000,000 | \$1,000.00 |
| For each additional million     |             | \$200.00   |
- (xi) Outlet License—Propane Exchange Centres Only—Initial and Renewal \$50.00
- (xii) Outlet License—Propane Refill Centres—Campgrounds Only—Initial and Renewal \$50.00
- (xiii) Aviation Fuel Depot \$500.00
- (xiv) Licenses Issued After October 1 Each Year 50% of Applicable License Fee (Minimum \$35.00)
- (xv) Fee for the Re-Issue or Amendment of any License During the Term of its  
Validity \$35.00
- (xvi) Administrative Fee for the Cancellation of any Unused License \$35.00

## Public Utilities

### Water and Sewer

Pursuant to section 15 of the *Island Regulatory and Appeals Commission Act*, utilities are assessed in accordance with the following scale. Rates are calculated based on a utility's prior year revenues.

REVENUE RANGE (\$)	ASSESSMENT RATE 2008-09	% CHANGE	ASSESSMENT RATE 2009-2010
0 - 5,000	\$275.63	0.00%	\$275.63
5,001 - 10,000	\$441.00	0.00%	\$441.00
10,001 - 50,000	\$716.63	0.00%	\$716.63
50,001 - 100,000	\$1,102.50	0.00%	\$1,102.50
100,001 - 250,000	1.23480%	0.00%	1.23480%
250,001 - 500,000	1.21275%	0.00%	1.21275%
500,001 - 750,000	1.19070%	0.00%	1.19070%
750,001 - 1,000,000	1.16865%	0.00%	1.16865%
1,000,001 - 1,250,000	1.14660%	0.00%	1.14660%
1,250,001 - 1,500,000	1.12455%	0.00%	1.12455%
1,500,001 - 1,750,000	1.10250%	0.00%	1.10250%
1,750,001 - 2,000,000	1.08045%	0.00%	1.05840%
2,000,001 - 2,500,000	1.05840%	0.00%	1.05840%

### Electric

The annual power assessment for Maritime Electric Company Limited is levied by the Commission, pursuant to Section 15 of the *Island Regulatory and Appeals Commission Act*.

The assessment for the City of Summerside Electric Utility is determined by the Lieutenant Governor in Council, pursuant to Section 46(2)(a) of the *Electric Power Act*.

### Automobile Insurance

The Commission levies annual assessments to all automobile insurers operating in the Province, pursuant to section 258.2 (3) of the *Insurance Act* and section 15 of the *Island Regulatory and Appeals Commission Act*.

Assessment amounts are based on insurers' reported proportionate premium income levels.





## LANDS PROTECTION - APPLICATIONS

The Commission is responsible for making recommendations to the Lieutenant Governor in Council on all applications by non-residents and corporations applying to acquire an interest in land pursuant to the provisions of the *Lands Protection Act*.

### Non-Resident Applications

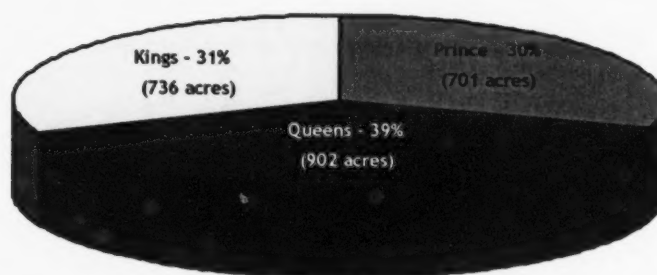
During the reporting period, the Commission considered forty-eight (48) applications from non-residents totaling 2,338.60 acres. Twenty-three (23) applications with shore frontage totaling approximately 22,924 feet were included in the non-resident applications.

The Commission recommended that the Lieutenant Governor in Council deny two (2) non-resident applications.

Both applications totaled thirty-four (34) acres of land. The Commission recommended that they be denied because the parcels were not "suitably advertised" on the local real estate market. The Commission believes that residents of the Province should have the opportunity to compete for land prior to non-residents being given permission to acquire it.

The Lieutenant Governor in Council disagreed with the Commission's recommendations and approved both applications; one without conditions and one approval subject to identification for non-development use.

### 2009-2010 Non-Resident Applications



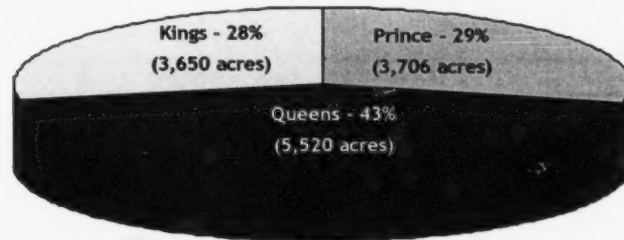
Acreage Distribution by County

## Corporate Applications – Resident

During this same period, the Commission considered one hundred and fifty (150) applications involving 12,875.93 acres of land from resident corporations. Twenty-eight (28) applications with shore frontage totaling approximately 33,219.85 feet were included in the corporate resident applications.

The Commission recommended that all resident corporate applications be approved.

### 2009-2010 Corporate Applications - Resident



Acreage Distribution by County

## Corporate Applications – Non-Resident

Twenty-one (21) applications involving 550.13 acres of land were considered from non-resident corporations. Six (6) applications with shore frontage totaling approximately 5,785 feet were included in the corporate non-resident applications.

The Commission recommended that all non-resident corporate applications be approved.

### 2009-2010 Corporate Applications - Non-Resident



Acreage Distribution by County

2009 – 2010

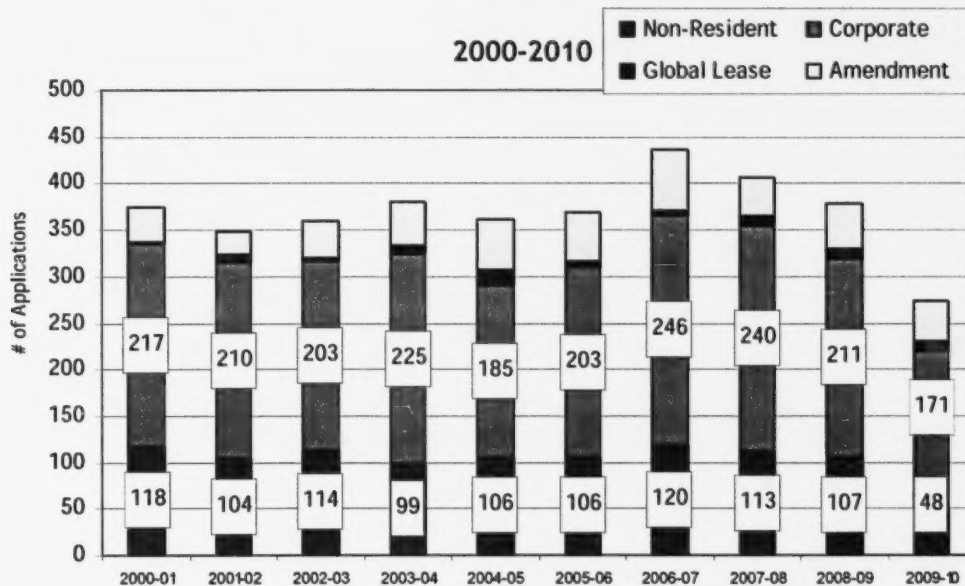
### Applications by County—Lands Protection Act

	PRINCE COUNTY		QUEENS COUNTY		KINGS COUNTY		TOTAL PROVINCE	
Type of Application	#	Acreage	#	Acreage	#	Acreage	#	Acreage
Non-Resident	13	701.03	23	901.55	12	736.02	48	2,338.60
Corporate—Resident	55	3,705.74	66.5	5,520.47	28.5	3,649.73	150	12,875.93
Corporate—Non-Resident	7	135.66	8	188.42	6	226.05	21	550.13
<b>TOTAL</b>	<b>75</b>	<b>4,542.43</b>	<b>97.5</b>	<b>6,610.44</b>	<b>46.5</b>	<b>4,611.80</b>	<b>219</b>	<b>15,764.66</b>

### Global Leasing Applications – Non-Resident and Corporate

Eleven (11) applications involving 7,140.40 acres of land were considered and approved.

### Applications Reviewed Under the Lands Protection Act



## **Applications to Cancel, Suspend or Amend Conditions**

The Commission is also responsible for receiving applications to cancel, suspend or amend any condition, including the condition that the land be identified for non-development use, imposed under subsection 9(1) of the Act. The Commission then submits a report respecting the disposition of each application to the Minister of Finance & Municipal Affairs who makes a recommendation on the disposition of the application to the Lieutenant Governor in Council.

During the reporting period, forty-four (44) applications involving 474.58 acres were considered. Three (3) applications involving 38.97 acres were denied, two (2) were denied in part and the rest were approved with varying special conditions.





## LANDS PROTECTION - OTHER

### Annual Disclosure Process

Under the *Lands Protection Act*, a person having an aggregate land holding in excess of 750 acres or a corporation having an aggregate land holding in excess of 2,250 acres is required to file an annual land holding disclosure statement with the Commission. The disclosure statements are filed pursuant to the provisions of subsection 10(2) of the Act which states:

*Without prejudice to subsection (1), any person or corporation having an aggregate land holding in excess of the limit specified in subsection (1) shall, not later than December 31 of each year, file a disclosure statement with the Commission.*

For the year 2009, the Commission received a total of one hundred and thirty-five (135) land holding disclosure statements, of which twenty-seven (27) statements were filed by corporations and one hundred and eight (108) filed by persons.

### The Land Identification Program

The objective of the Land Identification Program is to preserve land for resource use by identifying it for non-development use. Non-development use means use for such purposes as forestry, wildlife, agriculture, recreation, permanent or seasonal residences that do not involve commercial or industrial development or subdivision.

The Commission's involvement in this program pertains to acquisitions by non-residents and corporations. The Commission is responsible for making recommendations to the Lieutenant Governor in Council on the disposition of applications including recommendations whether the land should be identified.

2000-2010

#### All Applications—Land Identification Program Acreage Identified for Non-Development Use

Type of Application	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
Non-Resident	2,382	1,739	2,167	1,392	2,797	2,411	1,791	2,234	2,269	1,085
Corporate	7,415	13,956	15,156	9,394	4,804	6,049	5,174	5,207	6,056	4,847
TOTAL ACRES	9,797	15,695	17,323	10,786	7,601	8,460	6,965	7,441	8,326	5,931

The Commission places an emphasis on the identification of land for non-development use when it considers applications by non-residents and corporations for land acquisition. Special attention is paid to applications for acquisition of coastal land, active agricultural land, speculative land transactions and land intended for subdivision.

The Commission believes that this program is particularly important to preserve the Province's resource land base from premature and non-sustainable development, given the lack of a land use plan in much of the rural area of the Province. The program assists in ensuring that land will be available for the resource sector in the future.

During the reporting period, 5,931 acres were designated for identification for non-development use as a result of non-resident, non-resident corporate and resident corporate applications considered under the Act. The acreage identified represents approximately 38% of the total acreage considered by the Commission during the reporting period.

## Information and Monitoring System

The Commission's computerized land information system contains information on all applications filed with the Commission and the Land Use Commission dating back to 1977. The database also tracks persons and corporations that file annual land holding disclosure statements. This system allows the Commission to access information more quickly and efficiently when reviewing applications, conducting research and responding to public inquiries.

The Commission has provided access to certain information, pertaining to corporate and non-resident applications, to the general public through the Commission's website. This allows applicants and others who may have an interest in a particular application to follow its progress from the time it is filed until a decision is rendered. The Commission has expanded the relevant information now available to the public by adding a map showing the subject parcel.

The Commission continues to access property information and mapping through GeoLinc and the Department of Provincial Treasury's assessment records system, and uses a computerized mapping program called MapInfo to conduct research and studies relating to land matters. Up to date data is downloaded from the provincial database on a weekly basis.

## Enforcement

Contraventions of the *Lands Protection Act* are handled on a case-by-case basis. When a contravention of sections 2, 4, 5, or 5.3 of the Act occurs, pursuant to subsection 15.1(1), the Commission may impose a penalty, of not more than \$10,000.00 on any person or Corporation that has contravened.

During the reporting period, the Commission issued one (1) penalty for a Corporation which filed erroneous information with the Commission which resulted in one of the shareholders being in excess of their aggregate land holding limit.

When contraventions are not fully disclosed by the contravening party, pursuant to subsection 15(1) of the Act, the Commission may request information and conduct an investigation for the purpose of determining whether a person or corporation has contravened the Act or the regulations. During the reporting period, two (2) matters were carried over from the previous year. Both matters were finalized during the reporting period.

Over the past several years, the Commission has become increasingly concerned about the number of incidences in which arrangements have been used to hold land for non-resident persons. The Commission notes that it is unaware of any exceptions or legal opinions in respect of exceptions to the *Lands Protection Act* allowing for such arrangements and thus, these arrangements will continue to be dealt with as a circumvention of the *Lands Protection Act*.

## Municipal Boundary Extensions

The Commission is responsible for conducting public hearings with respect to municipal boundary extensions. Pursuant to subsection 12(1) of the *Municipalities Act*:

*12(1) Where a municipality wishes to extend its boundaries to include an area for which no municipal government is provided under this Act, it may apply to the Minister for approval of the annexation of that area.*

Pursuant to subsection 13(1), upon receipt of such application, the Minister shall direct the Commission to conduct a public hearing and make a recommendation to the Minister on the disposition of such application.

On March 30, 2010 the Minister referred an application to extend the municipal boundaries of the Town of Kensington to the Commission. The hearing of this application is pending during the 2010-2011 reporting period.





## REGULATORY FUNCTIONS

### Petroleum Licensing & Pricing

Petroleum regulation in Prince Edward Island is governed by the *Petroleum Products Act*, R.S.P.E.I. 1988, Cap. P-5.1. The purpose of the Act is set out in Section 2, which reads as follows:

*The purpose of this Act is to regulate the distribution and sale of petroleum products within the Province of Prince Edward Island for use within the Province, and the type, location, and operation of facilities and equipment associated therewith, and to ensure at all times a just and reasonable price for heating fuel and motor fuel to consumers and licensees within the Province.*

In addition, there is a requirement for the Commission, when dealing with applications for annual renewal of all licenses, to consider whether the licensee is in a position to ensure an adequate supply of product during the coming year, the quantity of petroleum products sold in the previous year and the quality of service which the outlet renders to the community in which it is situated. The Commission expects to receive a minimum of three months' notice, especially in the case of wholesaler-owned outlets, of an intention to close a licensed outlet or remove a licensed service. Wholesale licenses bear the following condition:

*It is a condition of this license that the licensee shall maintain the level and type of service offered as of the date of this license, and shall not interrupt the supply of petroleum products and related services to retailers and consumers, unless prior written approval has been obtained from the Commission.*

It is an important principle in regulation that, when a license is issued under the Act, a licensee cannot service customers selectively nor can a licensee arbitrarily discriminate against certain customers. It is a requirement of the Commission that products and services be provided in accordance with the class of license issued as prescribed by section 63 of the Act.

### 2000 – 2009 - Summary of Petroleum Licenses Issued

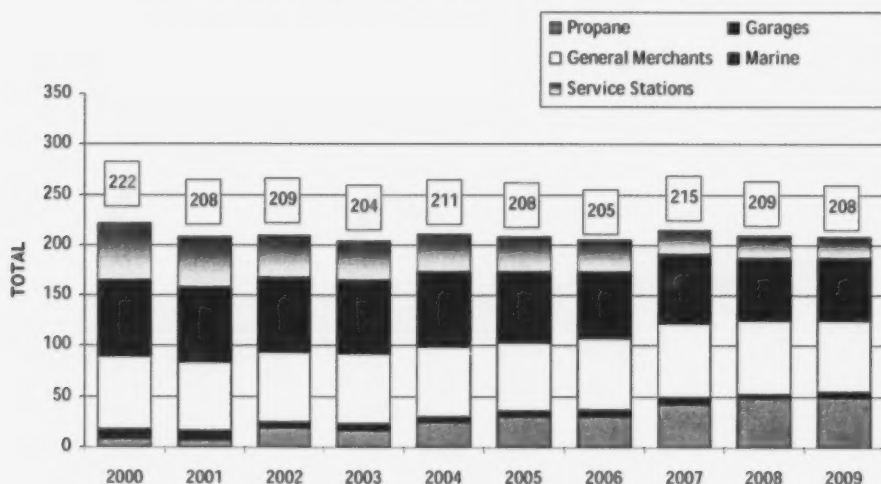
	wholesalers	retail outlets	retail distributors	tank trucks	TOTAL
2009	16	208	16	84	324
2008	14	209	16	84	323
2007	13	215	16	83	327
2006	14	205	18	88	325
2005	13	208	17	90	328
2004	13	211	19	92	335
2003	12	204	23	84	323
2002	12	209	28	90	339
2001	9	208	27	95	339
2000	9	222	27	98	356

**NOTE:** In addition to the above licenses, Slemon Park Corporation has been licensed since 1992 with respect to the sale of aviation fuels.

Under the Act, no wholesaler or wholesaler-retailer shall bring into the Province, cause another to bring into the Province or distribute within the Province, any petroleum product unless that wholesaler or wholesaler-retailer holds a license authorizing such activities. The Act also provides that no retailer, wholesaler or wholesaler-retailer shall sell or furnish any petroleum product or keep any petroleum product for sale at an outlet unless that retailer, wholesaler or wholesaler-retailer is the holder of a license with respect to each such outlet, and then only as specified in the license and subject to the Act and Regulations.

In the area of petroleum licensing, Section 20 of the Act requires that the Commission, when issuing a retailer's license, consider the public interest, convenience and necessity by applying such criteria as the Commission may from time to time consider advisable. This includes, but is not restricted to, a consideration of the demand for the proposed service, the location of the outlet, traffic flows and the applicant's record of performance.

### 2000-2009 - Summary of Petroleum Retail Outlets



A total of 16 wholesalers were licensed under the Act this past year. Ultramar Ltd., Shell Canada Limited, Imperial Oil Limited, Irving Oil Commercial GP, Irving Oil Marketing GP, Irving Energy Distribution and Marketing, Petro-Canada, Co-op Atlantic, Wilson Fuel Co. Limited, XTR Energy Company Limited and Bluewave Energy Ltd. supply common petroleum products, and in addition, Irving Energy Distribution and Marketing also handles propane. Propane exchange centres located throughout the Province are supplied by Lakeshore Fuels Inc., Supreme Tank Incorporated and Caledon Propane Inc. Kenmac Energy Inc. and Superior Propane supply bulk propane.

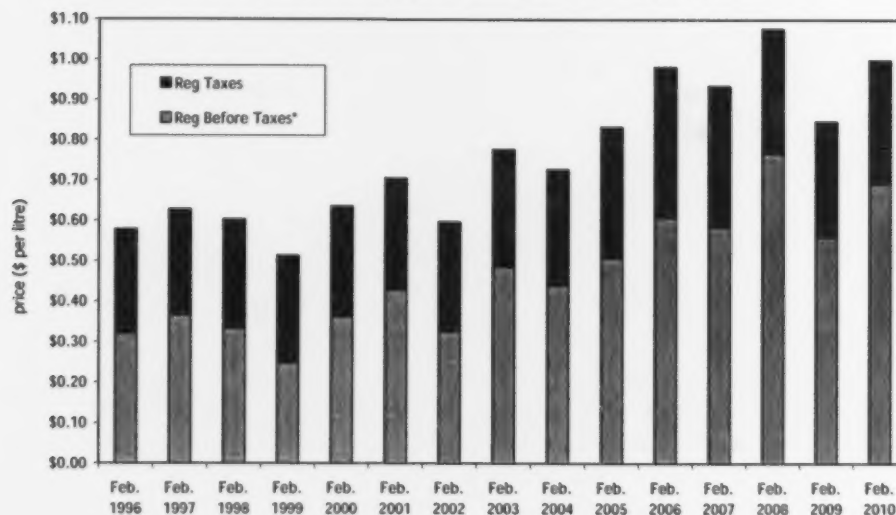
2000-2009 - Summary of Petroleum Retail Outlets by Classification						
	stations*	merchants	garages	marine	propane only	TOTAL
2009	20	71	5	62	50	208
2008	22	72	5	62	48	209
2007	24	73	6	69	43	215
2006	31	70	6	67	31	205
2005	34	68	6	70	30	208
2004	38	68	6	74	25	211
2003	38	70	6	73	17	204
2002	41	69	6	74	19**	209
2001	49	68	9	75	7	208
2000	56	71	10	77	8	222

\* Includes Commercial Diesel Cardlock until 2002

\*\* Includes 12 newly licensed as propane exchange centres only

In the area of petroleum pricing, the Commission's legislative mandate requires that it ensure a just and reasonable price for heating and motor fuels to consumers and licensees within the Province. In addition to dealing with individual applications for price changes to wholesalers' dealer and posted consumer prices, the Commission monitors available pricing information from local, national and international sources.

#### 1996-2010 Regular Gasoline - Pump Prices



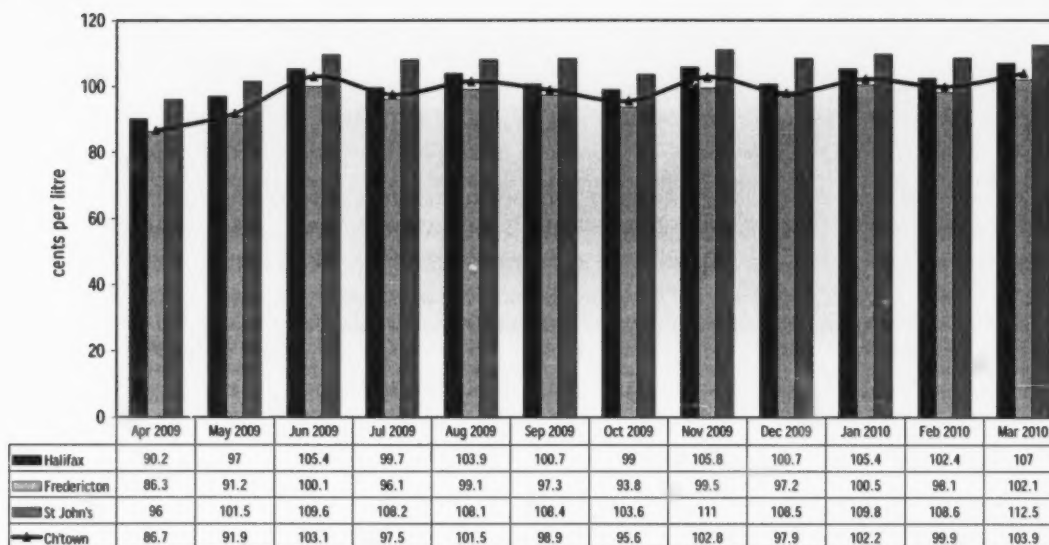
\*Includes average dealer markup of 5.5 cent per litre



The Commission also has the responsibility for determining retailers' minimum and maximum markups. Currently, the authorized markups range from 4.5 to 6.5 cents per litre at self-serve pumps, and from 6.5 to 9.5 cents per litre at full-serve pumps. In addition, the markup selected by a dealer for each method of dispensing must be consistently applied to each grade of gasoline sold or offered for sale at the outlet. At split-serve outlets, diesel fuel and each grade of gasoline sold at self-serve pumps must be priced at least 2.0 cents lower than the prices at which full-serve diesel fuel and each grade of gasoline are being offered for sale.

The following schedule compares regional regular unleaded gasoline prices during this reporting period.

**April 2009 - March 2010**  
**Regular Unleaded Gasoline Prices (Cents per litre) - Atlantic Region**



All petroleum product price changes authorized by the Commission are the subject of public notice. Current and archived pricing information on all products is available on the Commission's website at [www.irac.pe.ca](http://www.irac.pe.ca).

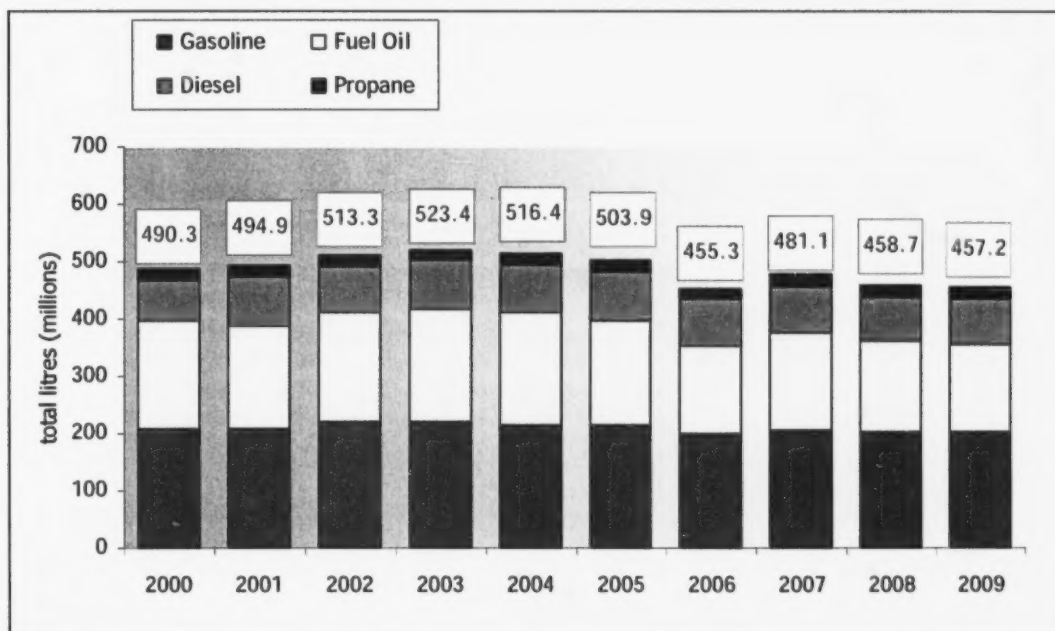
During the period covered by this report, the Commission issued 60 formal Orders relating to petroleum regulation.

Following is additional statistical data for the calendar years 2000-2009, including statistics relating to average gasoline volume per retail outlet (general merchant/service station/garage)

### 2000-2009 Summary of Petroleum Products Sold (in Litres)

	gasoline	fuel oils	diesel	propane	TOTAL
2009	204,146,117	152,735,666	79,634,904	20,775,982	457,292,669
2008	203,898,647	159,387,400	74,474,033	20,962,027	458,722,107
2007	206,735,629	171,956,926	80,292,701	22,083,751	481,069,007
2006	201,132,906	152,653,541	81,319,436	20,156,213	455,262,096
2005	215,606,663	181,001,327	86,042,708	21,247,305	503,898,003
2004	216,693,837	194,930,634	83,033,209	21,764,407	516,422,087
2003	221,220,829	197,008,105	84,807,293	20,359,506	523,395,733
2002	220,363,661	193,478,213	79,268,308	20,140,851	513,251,033
2001	208,970,074	180,317,704	85,272,665	20,330,264	494,890,707
2000	209,630,327	187,808,918	73,596,810	19,261,292	490,297,347

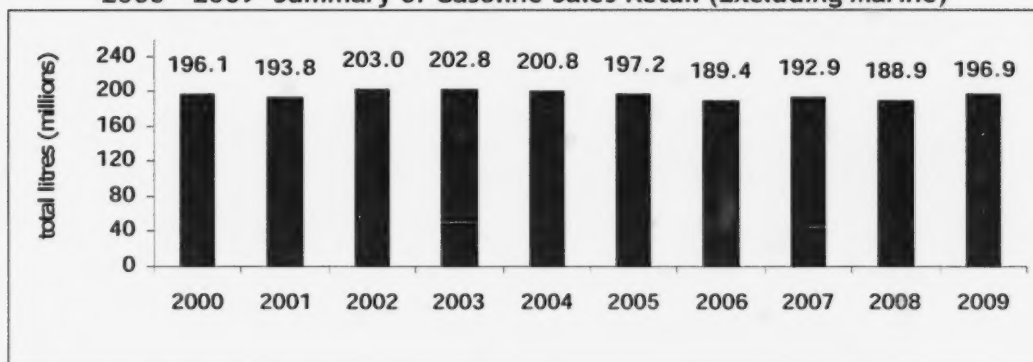
### 2000-2009 Summary of Petroleum Products Sold



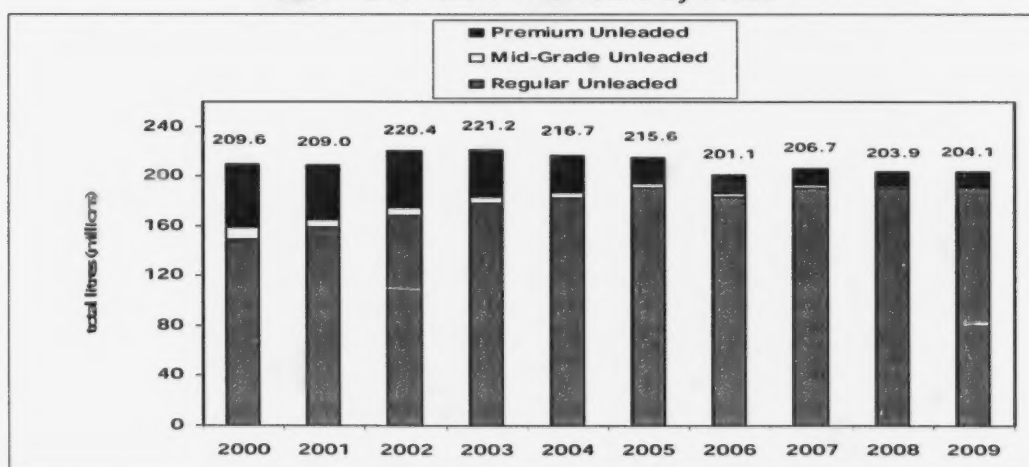
**2000- 2009 Retail Dealers – Gasoline Volume Statistics**

	retail gasoline volume (litres)	number of outlets	average volume/outlet
2009	196,896,709	96	2,051,007
2008	188,932,978	99	1,908,414
2007	192,890,821	103	1,872,726
2006	189,418,271	107	1,770,264
2005	197,224,392	108	1,826,152
2004	200,831,674	112	1,793,140
2003	202,788,877	114	1,778,850
2002	203,048,718	115	1,765,641
2001	193,792,185	124	1,562,840
2000	196,103,662	135	1,452,620

**2000 - 2009 Summary of Gasoline Sales Retail (Excluding Marine)**



**2000 - 2009 Sales of Gasoline by Grade**



## Public Utilities

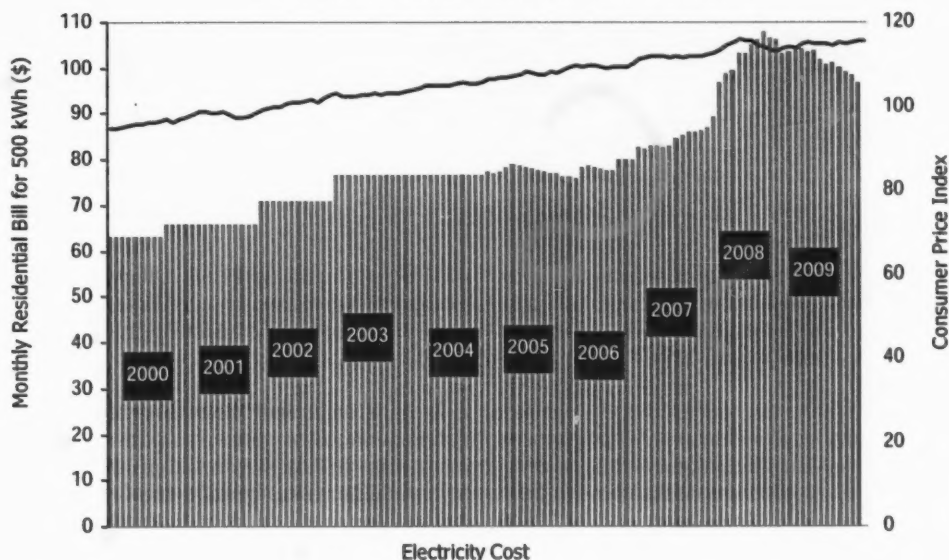
In the area of public utilities, the Commission derives its authority under the *Electric Power Act* and the *Water and Sewerage Act*. The former *Act* applies to electric utilities operating in the Province and the latter applies to municipal water and wastewater utilities<sup>1</sup>.

## Electric

The *Electric Power Act* came into effect on January 1, 2004 and returned Maritime Electric Company, Limited (Maritime Electric), the Province's principal supplier of electric power, to the jurisdiction of the Commission. The legislation provides, as well, for the regulation of electric power rates and charges of the City of Summerside Electric Utility insofar as that utility provides services beyond its corporate limits. However, by virtue of the *Electric Power Act City of Summerside Electric Utility Exemption Regulations*, the Summerside Utility is largely exempt from the jurisdiction of the Commission so long as its rates and charges for services provided beyond its corporate limits do not exceed its rates for services provided within the City.

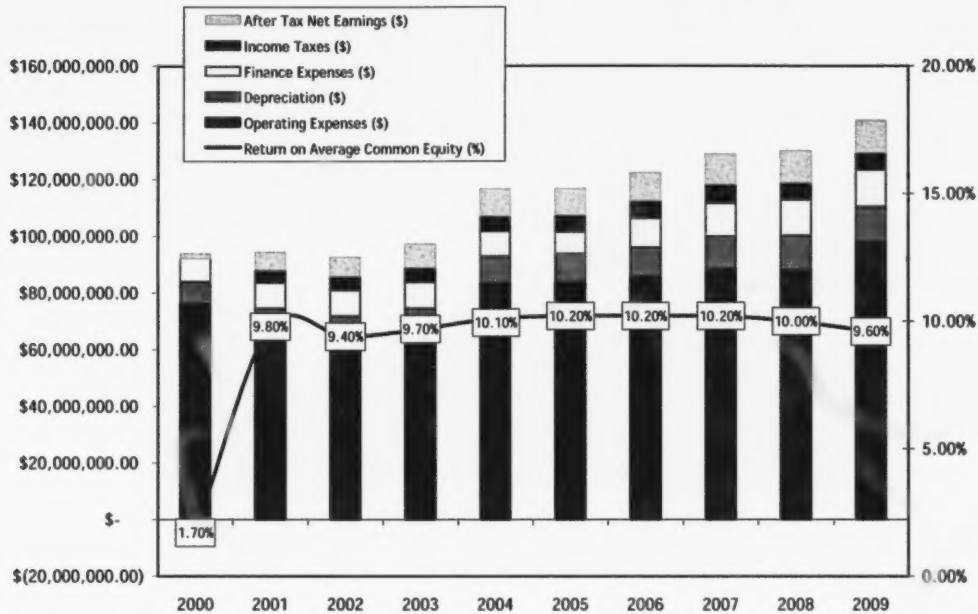
During the period covered by this report, Maritime Electric applied for 2010 and 2011 amendments to its rates, tolls and charges. This application rebases the ECAM account, seeks approval for recovery of Point Lepreau replacement energy and requests approval for a return on equity of 9.75% for 2010 and 2011. In addition, the Commission directed Maritime Electric to file evidence relating to the retention of the 2<sup>nd</sup> block reduced rate. The Commission decision on this application is expected in July, 2010. The Commission approved amendments to the interim Open Access Transmission Tariff and Key Performance Indicator measurement limits. Maritime Electric received approval for 2010 capital budget estimates and 2008 capital budget expenditure variances.

2000 - 2009 Electricity Costs Compared to the Consumer Price Index Maritime Electric



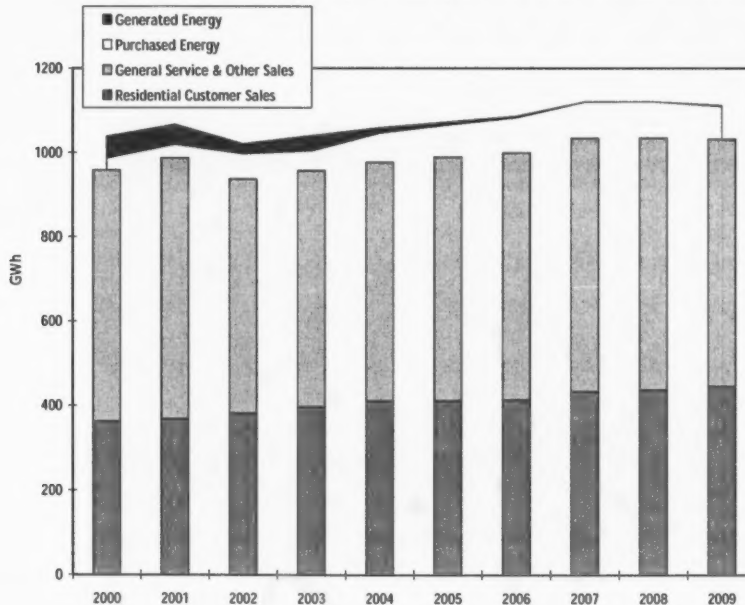
<sup>1</sup> The utilities operating in the cities of Charlottetown and Summerside and the towns of Stratford and Cornwall are exempt from the jurisdiction of the Commission.

### 2000-2009 Selected Electric Data - Maritime Electric

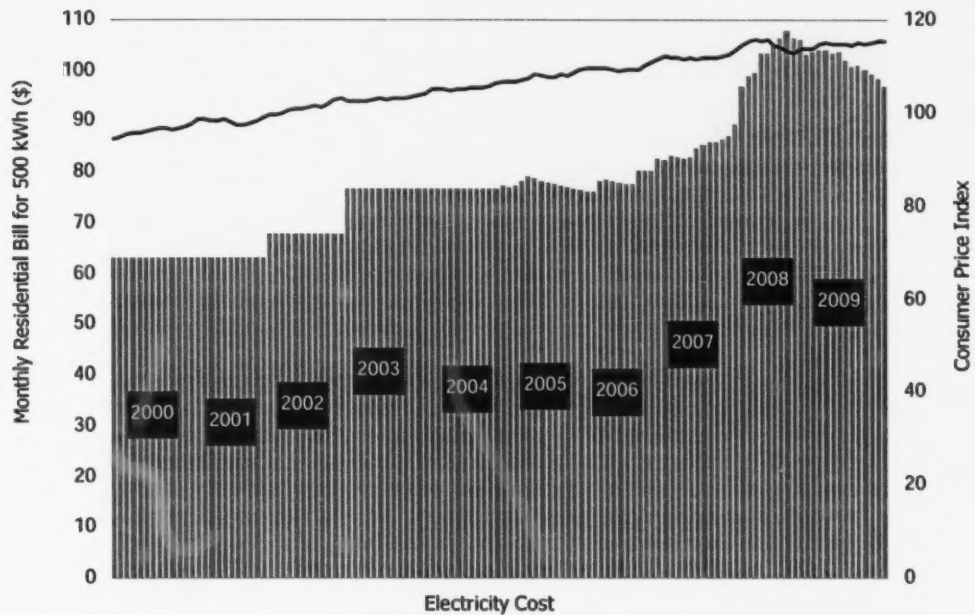


Under the *Renewable Energy Act*, Maritime Electric continues to work towards the requirements of a 5% reduction in the intensity of peak demand by 2010. Maritime Electric recently filed a progress report with the Commission which is presently under review.

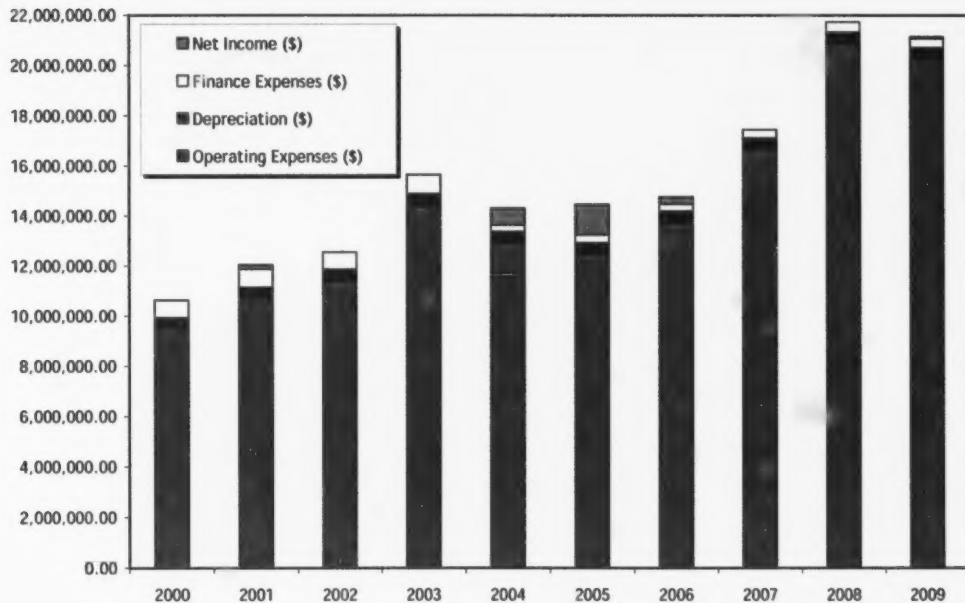
### 2000 - 2009 Selected Operating Data - Maritime Electric



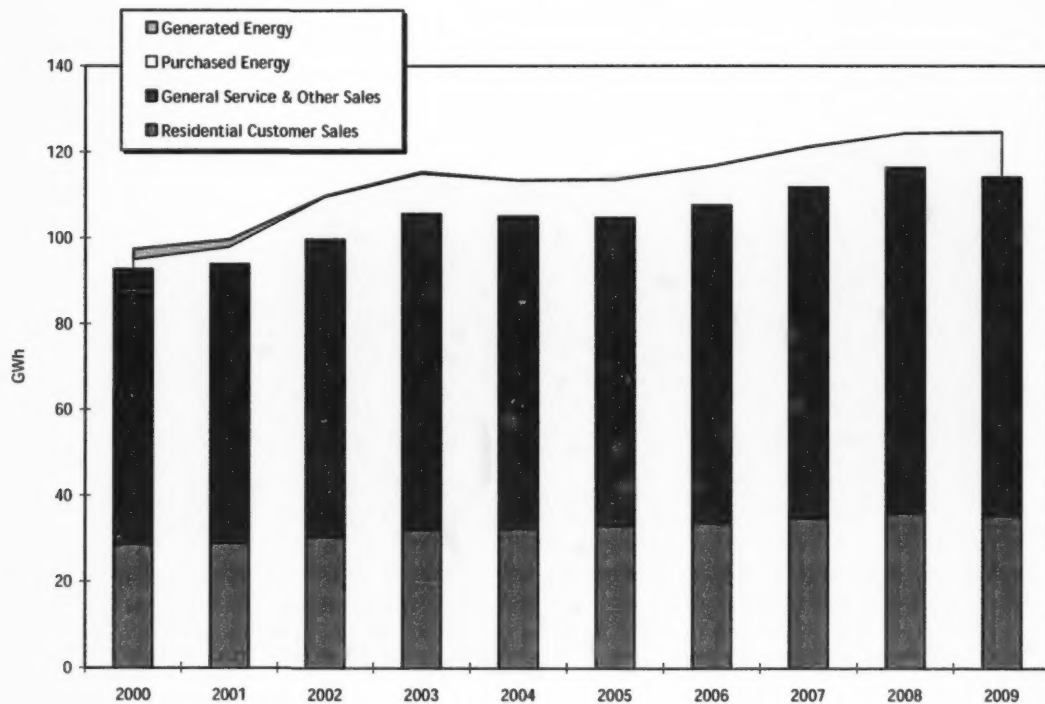
### 2000-2009 Electricity Costs Compared to the Consumer Price Index - Summerside Electric



### 2000 - 2009 Selected Financial Data - Summerside Electric



# 2000 - 2009 Selected Operating Data - Summerside Electric





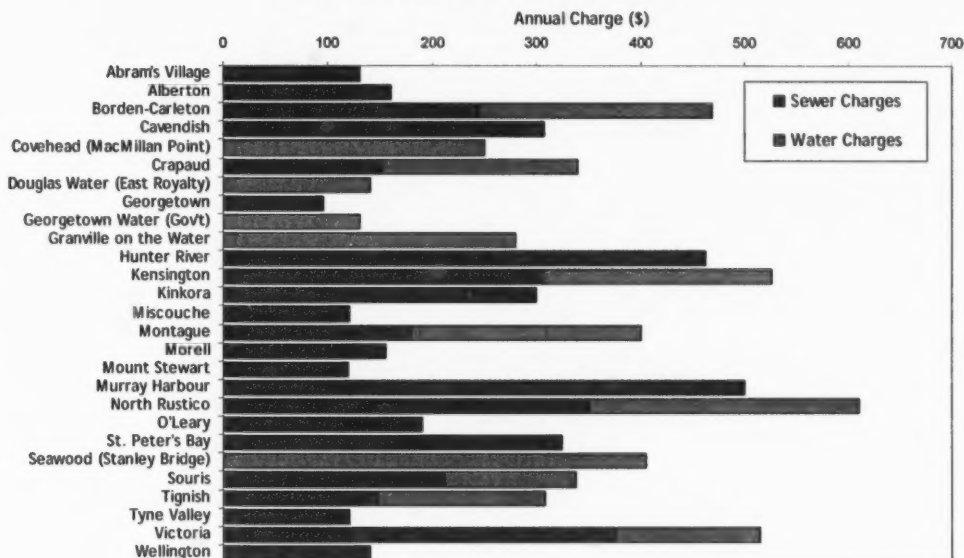
## Water & Sewer

In the area of municipal water and wastewater utilities, the Commission issued eleven (11) permits approving construction projects for various municipalities.

Specifically, projects approved by the Commission included the extension of water and sewer services in Kensington, sewer treatment plant upgrades in Tyne Valley, as well as Phase I of a lagoon upgrade in Crapaud, Phase IV of sewer extension work in Seawood Estates by the Cavendish Sewer Utility, and the extension of water services in Seawood Estates by the privately-owned water utility. Montague extended water service and carried out an upgrade to its Patrick Street lift station. Various water and sewer service main replacements were completed in Georgetown, Kinkora replaced sewer mains along Farmer Road, and O'Leary also replaced sewer mains within the community. In addition, sewer service was extended in Morell.

Partial funding of municipal construction projects continued to be available through various federal-provincial development initiatives.

**2009 Sewer-Water Annual Charges  
(Based on Single-Family Dwelling)**



In 1997, the Commission introduced a uniform system of accounts for water and wastewater utilities. The uniform system has generally been well received by the utilities under the Commission's jurisdiction and the accounting community. The benefits of uniform accounts are being realized, particularly now that all utilities are in compliance with the uniform reporting system.

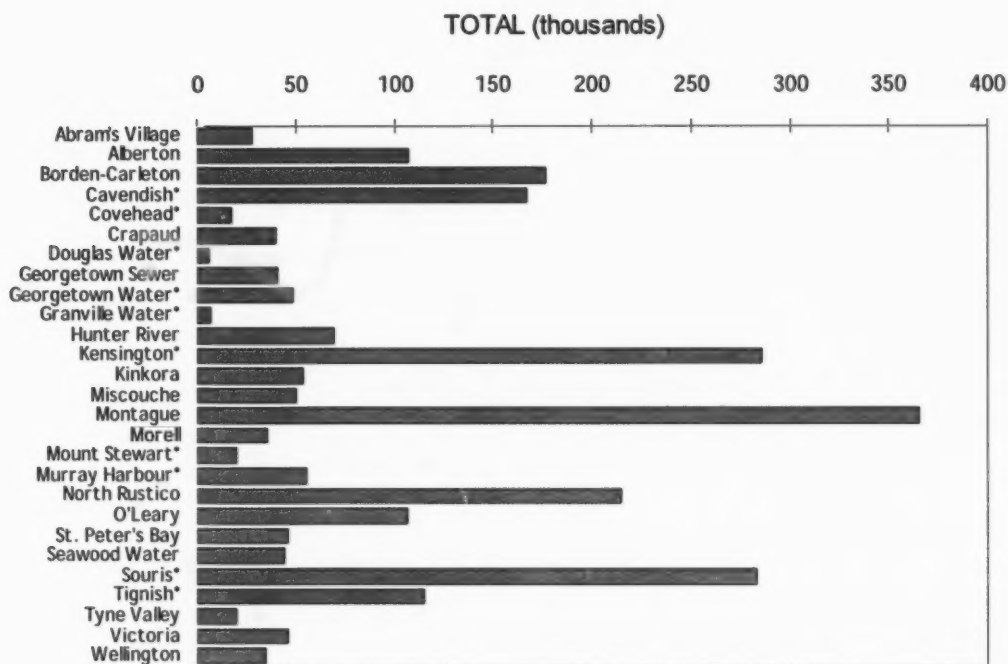
Many utilities continue to be impacted by high infrastructure costs and increased expenditures related to the day-to-day operation of treatment facilities. It is anticipated that several will require rate reviews within the next few years.

During this reporting period, the Commission issued five (5) water/wastewater related Orders. Borden-Carleton, Montague and Souris all received approval to increase water and sewer rates. In

each case, the increases were phased in over a period of time to offset the impact of the changes. Cavendish also received approval to amend its tariff of rates. Specifically, increased annual rates were approved, as well as the introduction of an infrastructure contribution charge applicable to sewer customers serviced within the Seawood Estates subdivision. Water rates for the MacMillan Point utility (formerly Covehead Developments) were confirmed as well during this reporting period.

Numerous utility-related inquiries and complaints were also addressed.

### 2009 - Total Revenues - Sewer and Water Utilities



### Automobile Insurance

In December of 2003, the provincial government amended the *Insurance Act* to place the supervision of automobile insurance rates under the jurisdiction of the Commission. The legislation required that all insurers providing automobile insurance in Prince Edward Island file their rates with the Commission on, at least, an annual basis.

This past year, the Commission reviewed a total of 51 rate and/or rate related filings. On a weighted average basis, the overall rate impact observed on PEI for this period amounted to +0.1%. This, combined with average rate reductions of 9.9% in 2004, 3.3% in 2005, 4.8% in 2006, 3.4% in 2007 and 0.0% in 2008, yields a combined weighted average rate reduction of approximately 21% since the introduction of insurance reform in 2003.

As observed in previous years, the Commission's analysis revealed that there were broad differences in the rates charged by different companies for similar insurance coverage. Accordingly, the Commission is of the opinion that strong competition in the general insurance market continues to exist in Prince Edward Island.

## Waste Management

The *Environmental Protection Act* requires Commission approval of variations to existing rates and proposed rates for new services by the Island Waste Management Corporation (IWMC). In seeking rate changes, the IWMC is required to file with the Commission a schedule of proposed rates, a submission justifying or explaining the proposed rates and any such information as the Commission may require. In December, 2009 the Commission approved an increase in the basic household fee to \$199.85 as well as increases in the per tonne rates for bulk drop off of various waste materials.





## APPELLATE FUNCTIONS

### Planning

Under the *Planning Act*, the Commission is responsible for hearing and deciding appeals relating to land use.

As an appellate body the Commission hears appeals from persons who are dissatisfied with decisions made by the Minister of Finance and Municipal Affairs or a municipal council pursuant to subsections 28(1) and 28(1.1) of the Act. These provisions are set out as follows:

*28. (1) Subject to subsections (1.2) to (4), any person who is dissatisfied by a decision of the Minister that is made in respect of an application by the person, or any other person, pursuant to the regulations for*

- (a) a development permit;*
- (b) preliminary approval of a subdivision or a resort development;*
- (c) a final approval of a subdivision;*
- (d) the approval of a change of use; or*
- (e) any other authorization or approval that the Minister may grant or issue under the regulations,*

*may appeal the decision to the Commission by filing with the Commission a notice of appeal.*

*(1.1) Subject to subsections (1.2) to (1.4), any person who is dissatisfied by a decision of the council of a municipality*

*(a) that is made in respect of an application by the person, or any other person, under a bylaw for*

- (i) a building, development or occupancy permit,*
- (ii) a preliminary approval of a subdivision,*
- (iii) a final approval of a subdivision; or*
- (b) to adopt an amendment to a bylaw, including*
  - (i) an amendment to a zoning map established in a bylaw, or*
  - (ii) an amendment to the text of a bylaw,*

*may appeal the decision to the Commission by filing with the Commission a notice of appeal.*

In 2009-2010, the Commission received a total of 19 appeals. In addition, 8 appeals were carried forward from previous years. Of these 27 appeals, 2 were allowed, 6 were denied, 7 were subsequently withdrawn by the Appellant and in 3 appeals the Commission did not have jurisdiction to hear the appeal. A total of 9 appeals are pending.

### 2001-2010 - Status of *Planning Act* Appeals

Appeals	00-01	01-02	02-03	03-04	04-05	05-06	06-07	07-08	08-09	09-10
Allowed	1	1	1	4	1	4	3	2	3	2
Denied	9	5	1	2	10	6	9	5	9	6
Withdrawn	6	2	7	6	10	8	3	1	13	7
No Jurisdiction	3	1	3	2	9	4	3	4	1	3
Mediated	3	1	2	0	2	2	2	0	0	0
Pending	6	3	7	9	10	13	4	10	8	9
Total	28	13	21	23	42	37	24	22	34	27

While all appeals may have the potential to set a precedent, appeals where the Commission's jurisdiction is at issue have an especially important impact as they help to establish what kinds of future appeals the Commission can, and cannot, hear. The following appeals may be of particular interest for the future.

In appeal LA09015, Order LA09-11, the Commission found that it did not have the jurisdiction to hear a decision of a municipality to realign an intersection by using a modern roundabout. The Commission found that the City of Charlottetown's authority to control, lay out, improve, alter, maintain and repair public streets stems from the *Charlottetown Area Municipalities Act* (CAMA) and not the *Planning Act*. As the Commission does not have the jurisdiction to hear appeals of decisions made under the CAMA, the Commission did not have the jurisdiction to hear this appeal.

In appeal LA09010, Order LA09-12, the Commission found that neither the City of Charlottetown nor the Commission, has jurisdiction over the height or location of radio communication towers as such parameters are within the exclusive jurisdiction of the Government of Canada.

## Real Property Assessments

The Minister of Finance and Municipal Affairs is responsible for administering the *Real Property Assessment Act*. Sub-section 22(1) of the *Act* states:

*Where an assessment has been referred to the Minister under Section 20, and after the Minister has notified the person making the reference of his decision, the person making the reference may appeal to the Commission to have the assessment vacated or varied.*

In 2009-2010, the Commission received 19 appeals. In addition, 18 appeals were carried forward from previous years. Of these 37 appeals, 13 were subsequently withdrawn, one appeal was denied and 23 appeals are currently pending.

## Real Property Taxes

The Minister of Finance and Municipal Affairs is responsible for administering the *Real Property Tax Act*. Subsection 35(1) of the *Act* reads:

*Where a tax has been referred to the Minister under Section 33, and after the Minister has notified the person making the reference of his decision, the person making the reference may appeal to the Commission, to have the tax vacated or varied.*

No appeals were filed with the Commission during this reporting period.

## Appeals under the Emergency 911 Act

Section 10 of the *Emergency 911 Act* authorizes the Lieutenant Governor in Council to make regulations respecting appeals to the Commission from decisions of the Provincial Tax Commissioner addressing objections of telecommunications carriers in respect of assessments, reassessments and estimates. Where a telecommunications carrier disputes liability for an amount indicated as being due and payable, the *Emergency 911 Act 911 Cost Recovery Fees Regulations* provides the telecommunications carrier with the right to appeal a decision of the Provincial Tax Commissioner with respect to the reconsideration of the assessment, reassessment or estimate.

No appeals were filed with the Commission during this reporting period.

## Revenue (Sales) Taxes

Under the *Revenue Administration Act*, the Commission acts as an appellate tribunal that hears appeals from decisions of the Provincial Tax Commissioner in relation to tax assessments made under several provincial revenue acts.

In 2008-2009, one sales tax appeal was filed with the Commission. This appeal was withdrawn in January 2010.

## Unightly Properties

The *Unightly Property Act* deals with properties that are considered unsightly. Under the *Act* an Order can be issued to an individual to clean up the property. Pursuant to Section 7 of the *Act*, where an individual is issued an Order to clean up an unsightly property, he or she may appeal to the Commission. On hearing the appeal, the Commission may confirm, rescind or in any manner vary the Order, and the judgment of the Commission shall be final.

During the reporting period, no appeals were filed with the Commission.

## Entranceway Permits

The *Roads Act* is the responsibility of the Minister of Transportation and Infrastructure Renewal. The Commission has appellate jurisdiction as set out pursuant to subsection 12(1) of the *Highway Access Regulations*:

*Where the Minister has discretion to issue an entranceway permit pursuant to these regulations, a decision of the Minister may be appealed to the Island Regulatory and Appeals Commission, by the applicant.*

During the reporting period, no appeals were filed with the Commission.

## Heritage Places

Under the *Heritage Places Protection Act* and the *Heritage Places Protection Act Regulations*, the Minister may designate any heritage place as a designated site, structure or area. The owner of any property designated as a heritage place, or any municipality in which the property is located, may appeal the Minister's decision by written notice to the Commission within 30 days of the receipt of service of the Notice of Designation of Heritage Place.

No appeals were filed with the Commission during this reporting period.



## Environmental Appeals

Section 29.1 of the *Environmental Protection Act* operates in conjunction with Section 13 of the *Environmental Protection Act - Watercourse and Wetland Protection Regulations* to provide a limited right of appeal to the Commission. This right of appeal pertains to certain decisions made by the Minister of Environment, Energy and Forestry.

Two appeals were filed with the Commission during this reporting period. Both of these appeals were withdrawn during the reporting period.

## Rental Appeals

Under the *Rental of Residential Property Act*, the Commission has the power to hear appeals from decisions of the Director of Residential Rental Property. Of the 395 Orders issued on rental matters by the Director during the 2009-2010 period, the Commission received 39 appeals. In addition, 5 appeals were carried forward from 2008-2009. Of these 44 appeals, one appeal was withdrawn, the Commission issued decisions on 40 appeals and 3 appeals are pending.

The volume of rental appeals this period—as noted above—is significantly higher than experienced in 2008-2009, where out of 399 Orders issued by the Director of Residential Rental Property, 23 appeals were filed with the Commission.



## OFFICE OF THE DIRECTOR OF RESIDENTIAL RENTAL PROPERTY

The Office of the Director of Residential Rental Property is responsible for the administration of the *Rental of Residential Property Act*, primarily dealing with disputes between lessors and lessees.

The following outlines the major roles and responsibilities of the Office and the level of activity under each of the designated sections of the *Act*. Statistical information is based on the fiscal year from April 1, 2009 to March 31, 2010.

The administration of the *Rental of Residential Property Act* is carried out by the Office of the Director of Residential Rental Property, while The Island Regulatory and Appeals Commission (the "Commission") hears appeals from the decisions of the Director of Residential Rental Property and those rental officers who have been delegated decision making power by the Director.

The *Act* establishes the obligations and responsibilities of the parties to rental agreements for residential premises. Procedures are set out to deal with violations and to enforce obligations under rental agreements. The *Act* sets out mechanisms whereby violations are expeditiously handled and the system is readily accessible to all parties. The *Act* outlines, among other things, procedures for the enforcement of statutory conditions, the handling of security deposits, the termination of rental agreements, rent owing, disposition of abandoned personal property, and properly increasing rent.

The Office has exclusive responsibility for the administration of the *Act* and Regulations. The Director is responsible for:

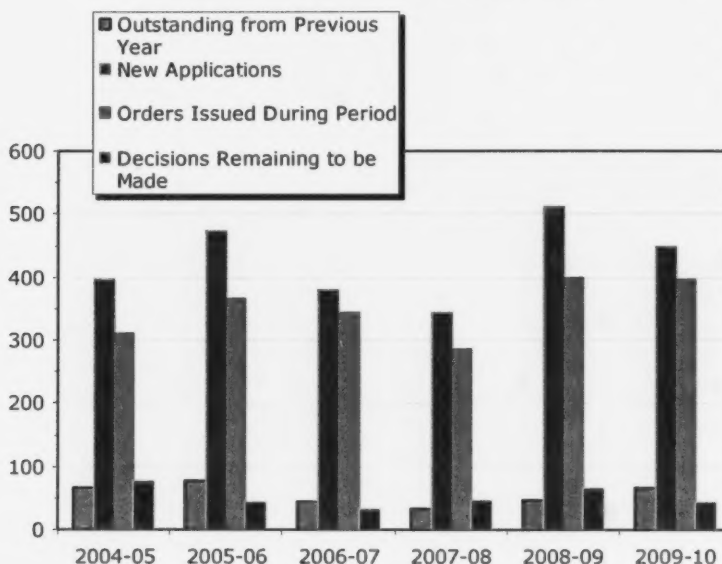
- Providing information to the public to promote understanding of rights and responsibilities under this *Act*;
- Advising lessors and lessees with respect to matters relating to rental agreements;
- Receiving and investigating allegations of violations of rental agreements, or of the *Act* or the Regulations;
- Holding hearings, giving notice thereof to the parties, determining matters of procedure at hearings and making decisions or orders with respect to matters relating to the rights of lessors or lessees arising pursuant to this *Act*; and
- Entering and inspecting residential premises, after serving an inspection order, for the purpose of carrying out the powers or duties under this *Act* or the Regulations.

As a result of legislative changes in 1998, the *Act* applies to all premises licensed under the *Tourism Industry Act* where guests rent such premises for a continuous period of one month or more.

The Act is administered on a Province-wide basis with the majority of hearings being held at the offices of the Commission. Hearings are also held at various Access PEI Centres when the housing unit involved is in that regional area.

During 2009-2010 the Office received 450 new applications concerning rental matters and issued 395 orders. During the 2008-2009 reporting period the Office received 513 new applications and issued 399 Orders.

### Status of Applications 2004-2010



### 2004-2010 - Orders Issued Rental of Residential Rental Property

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
DETERMINATION OF SECURITY DEPOSITS	52	56	55	40	55	46
BREACH OF STATUTORY CONDITIONS	205	253	228	173	257	261
TERMINATION	45	43	56	62	61	75
RENT INCREASE	9	14	4	12	26	13
<b>TOTAL</b>	<b>311</b>	<b>366</b>	<b>343</b>	<b>287</b>	<b>399</b>	<b>395</b>

In 2009-2010, the Office received 11,029 inquiries, which is a decrease of 18.1% from the 2009-2010 level of 13,467 inquiries.

## 2004-2010 - Inquiries Rental of Residential Rental Property

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
<b>NATURE OF INQUIRY</b>						
<b>BREACH OF STATUTORY CONDITIONS</b>						
CONDITION OF PREMISES	885	794	708	674	790	682
SERVICES	523	365	282	417	517	379
GOOD BEHAVIOR	178	156	186	142	167	150
LESSEE CLEANLINESS AND / OR DAMAGES	579	553	596	533	457	346
SUBLET BY LESSEE	50	38	34	39	32	66
ENTRY OF PREMISES	299	227	222	247	181	206
ENTRY DOORS	99	64	42	38	57	27
LATE PENALTY PAYMENT	11	6	3	7	10	6
QUIET ENJOYMENT	218	168	146	163	130	143
LESSEE DELIVERY OF POSSESSION	762	698	728	835	779	697
MOBILE HOMES	48	55	40	52	76	50
RENT	2,785	2,545	2,544	2,388	2,494	1,991
OTHER STATUTORY CONDITIONS	1,071	228	213	288	285	444
PERSONAL PROPERTY	313	284	200	220	237	221
WASTE MANAGEMENT	28	14	8	9	1	6
NO STATUTORY CONDITION SPECIFIED	0	0	0	0	0	0
<b>SECURITY DEPOSITS</b>	1,982	2,055	1,915	1,717	1,583	1,297
<b>TERMINATION</b>	2,970	2,470	2,491	2,625	2,557	2,451
<b>RENT INCREASE</b>	575	882	468	609	1,345	568
<b>OTHER</b>	1,980	1,737	1,652	1,680	1,769	1,299
<b>TOTAL</b>	<b>15,356</b>	<b>13,339</b>	<b>12,478</b>	<b>12,683</b>	<b>13,467</b>	<b>11,029</b>

Note: There are some Office and Telephone calls and Email's or Fax's which involve more than one category inquiry.

The following sections outline the level of activity under the main sections of the Act.

### Enforcement of Statutory or Other Conditions of a Rental Agreement

The statutory conditions are those obligations of either the lessor (landlord) or the lessee (tenant) as set out in the Act and the standard form of rental agreement. Statutory conditions include such issues as: good behavior, condition of the premises, return of rent, subletting of the premises, entry into the premises and late payment penalty. Other conditions of a rental agreement include the return of security deposits and the payment of rent. The Act also provides for a process for dealing with personal property abandoned by lessees. In all cases the parties are encouraged to resolve disputes after their rights are explained. When this is unsuccessful, an application is received and processed by investigation and/or hearing.

During the reporting period, the Office received 296 applications involving statutory or other conditions. This is a decrease of 21 from the previous year's total of 317.

## 2004-2010 Nature of New Applications Rental of Residential Rental Property

	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
<b>NATURE OF NEW APPLICATIONS</b>						
<b>DETERMINATION OF SECURITY DEPOSITS</b>	42	57	56	37	55	40
<b>BREACH OF STATUTORY CONDITIONS</b>						
CONDITION OF PREMISES	16	20	9	12	21	16
SERVICES	1	2	3	4	21	3
GOOD BEHAVIOR	1	0	0	0	1	0
LESSEE CLEANLINESS AND / OR DAMAGES	0	0	0	0	0	0
SUBLET BY LESSEE	0	0	0	0	0	0
ENTRY OF PREMISES	1	0	0	0	0	0
ENTRY DOORS	1	0	0	0	0	0
LATE PENALTY PAYMENT	0	0	0	0	0	0
QUIET ENJOYMENT	2	2	0	2	2	1
MOBILE HOMES	0	0	0	0	0	0
LESSEE DELIVERY OF POSSESSION	139	154	102	98	126	145
SECURITY DEPOSIT	18	22	22	15	17	23
RENT	88	121	90	74	112	81
PERSONAL PROPERTY	13	23	18	13	14	19
OTHER	6	4	4	5	3	8
<b>TERMINATION</b>	61	54	71	72	66	97
<b>RENT INCREASE</b>	8	14	4	13	75	17
<b>TOTAL</b>	397	473	379	345	513	450

### Security Deposits

The Act sets out the handling and processing requirements for security deposits taken as a condition of the rental agreement. The lessor is required to deposit the funds at a financial institution in a designated trust account and interest accrues while the deposit is held. Within 10 days of the lessee delivering up possession of the premises, the lessor is to return the deposit with interest. The lessor may retain all or a portion of the deposit to cover damages or unpaid rent but if this is done, the lessee must be advised of the nature and amount of charges made. If an agreement is not reached between the parties, the lessee may request a decision by the Director, at which time the deposited funds are forwarded and held in trust by the Director. An investigation is then carried out and a decision is rendered.

The Office received 40 applications involving security deposits during this reporting period. This represents a decrease of 15 from the previous year's total of 55 applications.

### Termination of Rental Agreements

The Act provides for limited security of tenure for the lessee whereby the lessee must be given, in writing, the proper notice and the reason for the termination of the rental agreement. Termination is allowed only for the reasons set out in Sections 13, 14 and 15 of the Act. If a lessee wishes to challenge a notice of termination, the lessee must apply to the Office. The lessor may also apply for earlier termination of the rental agreement where circumstances warrant. In either

case, when an application regarding termination is received, an investigation is carried out and a decision rendered.

In 2009-2010, the Office received 97 applications involving the termination of rental agreements during the reporting period. This represents an increase of 31 over the previous year's level of 66 applications.

### **Rent Increases**

Each year the Director invites written representation from lessors and lessees to assist in establishing the annual prescribed percentage rent increase. The Director is responsible for preparing background material for the Commission, with the Commission responsible for making the decision on the allowable percentage rent increase for the coming year. The Commission established the allowable percentage rent increase for 2010 at 2% for all residential premises and mobile home sites, whether heated or unheated. In 2009, the permissible rent increase was established at 3% for all unheated residential premises and for all mobile home sites, and at 5% for heated residential premises. Any rent increase exceeding the established amount requires approval by the Director before being charged and collected.

During the reporting period, the Office received 17 applications involving rent increases. This represents a decrease of 58 from the previous year's level of 75 applications.

### **Appeals to the Commission**

The Commission has the power to hear appeals from the decisions of the Director. Of the 395 Orders issued on rental matters during the reporting period, 39 were appealed to the Commission. During 2008-2009 there were 23 appeals taken of the 399 Orders issued.

### **Significant Events**

The Office continues to experience a high level of activity. Although the number of inquiries and applications relating to rent increases declined sharply, the number of applications in all other categories remains at par with the previous reporting period's very high level of activity. The Office was able to maintain the number of decisions rendered, which resulted in a significant reduction in the average waiting time for non-urgent Orders.

The Office continues its commitment to providing reliable general information on rental issues, both through its website ([www.irac.pe.ca/rental](http://www.irac.pe.ca/rental)) and through presentations given throughout the Province by the Information Officer and by Rental Officers.

The Office continues to participate in the process of implementing the Recommendations for Amendments to the *Rental of Residential Property Act*.